

THE SITUATION IN EL SALVADOR

HEARINGS
BEFORE THE
SUBCOMMITTEES ON HUMAN RIGHTS AND
INTERNATIONAL ORGANIZATIONS
AND ON
WESTERN HEMISPHERE AFFAIRS
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
NINETY-EIGHTH CONGRESS
SECOND SESSION

JANUARY 26; FEBRUARY 6, 1984

Printed for the use of the Committee on Foreign Affairs



THE SITUATION IN EL SALVADOR

HEARINGS
BEFORE THE
SUBCOMMITTEES ON HUMAN RIGHTS AND
INTERNATIONAL ORGANIZATIONS
AND ON
WESTERN HEMISPHERE AFFAIRS
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
NINETY-EIGHTH CONGRESS
SECOND SESSION

JANUARY 26; FEBRUARY 6, 1984

Printed for the use of the Committee on Foreign Affairs



COMMITTEE ON FOREIGN AFFAIRS

DANTE B. FASCELL, Florida, *Chairman*

LEE H. HAMILTON, Indiana
GUS YATRON, Pennsylvania
STEPHEN J. SOLARZ, New York
DON BONKER, Washington
GERRY E. STUDDS, Massachusetts
ANDY IRELAND, Florida
DAN MICA, Florida
MICHAEL D. BARNES, Maryland
HOWARD WOLPE, Michigan
GEO. W. CROCKETT, Jr., Michigan
SAM GEJDENSON, Connecticut
MERVYN M. DYMALLY, California
TOM LANTOS, California
PETER H. KOSTMAYER, Pennsylvania
ROBERT G. TORRICELLI, New Jersey
LAWRENCE J. SMITH, Florida
HOWARD L. BERMAN, California
HARRY M. REID, Nevada
MEL LEVINE, California
EDWARD F. FEIGHAN, Ohio
TED WEISS, New York
ROBERT GARCIA, New York

WILLIAM S. BROOMFIELD, Michigan
LARRY WINN, Jr., Kansas
BENJAMIN A. GILMAN, New York
ROBERT J. LAGOMARSINO, California
JOEL PRITCHARD, Washington
JIM LEACH, Iowa
TOBY ROTH, Wisconsin
OLYMPIA J. SNOWE, Maine
HENRY J. HYDE, Illinois
GERALD B. H. SOLOMON, New York
DOUGLAS K. BEREUTER, Nebraska
MARK D. SILJANDER, Michigan
ED ZSCHAU, California

JOHN J. BRADY, Jr., *Chief of Staff*
NANCY A. AGRIS, *Staff Assistant*
SHIRLEY DAWSON, *Staff Assistant*

SUBCOMMITTEE ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS

GUS YATRON, Pennsylvania, *Chairman*

DON BONKER, Washington
MEL LEVINE, California
TED WEISS, New York
TOM LANTOS, California
PETER H. KOSTMAYER, Pennsylvania

JIM LEACH, Iowa
ED ZSCHAU, California
GERALD B. H. SOLOMON, New York

ROBERT MICHAEL FINLEY, *Subcommittee Staff Director*
CYNTHIA D. SPRUNGER, *Minority Staff Consultant*
MARK J. TAVLARIDES, *Subcommittee Staff Consultant*
BERNADETTE PAOLO, *Subcommittee Staff Consultant*

SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS

MICHAEL D. BARNES, Maryland, *Chairman*

GERRY E. STUDDS, Massachusetts
SAM GEJDENSON, Connecticut
PETER H. KOSTMAYER, Pennsylvania
HARRY M. REID, Nevada
ROBERT GARCIA, New York
STEPHEN J. SOLARZ, New York

ROBERT J. LAGOMARSINO, California
HENRY J. HYDE, Illinois
DOUGLAS K. BEREUTER, Nebraska

VICTOR C. JOHNSON, *Subcommittee Staff Director*
TABOR E. DUNMAN, Jr., *Minority Staff Consultant*
ROBERT J. KURZ, *Subcommittee Staff Consultant*
LILLIAN PUBILLONES, *Subcommittee Staff Consultant*

CONTENTS

WITNESSES

Thursday, January 26, 1984:	
Hon. Langhorne A. Motley, Assistant Secretary for Inter-American Affairs, Department of State, accompanied by Hon. Elliott Abrams, Assistant Secretary for Human Rights and Humanitarian Affairs, Department of State; and James Michel, Deputy Assistant Secretary for Inter-American Affairs, Department of State.....	Page 4
Monday, February 6, 1984:	
Hon. Robert E. White, former U.S. Ambassador to El Salvador	40
Lt. Col. Edward King, U.S. Army (retired).....	55
Norman C. Mintle, international reporter, Christian Broadcasting Network	76
Martin Diskin, Massachusetts Institute of Technology	80
Aryeh Neier, vice chairman, Americas Watch.....	128
Michael H. Posner, Lawyers Committee for International Human Rights..	141

MATERIAL SUBMITTED FOR THE RECORD

Statement of Hon. Robert J. Lagomarsino, a Representative in Congress from the State of California.....	3
U.S. Embassy estimates of war-related damages to the Salvadoran economy during the period 1979-83	23
Salvadoran military program to develop its noncommissioned officer structure	37

APPENDIXES

1. Report on the situation in El Salvador prepared by the Department of State, dated January 16, 1984.....	185
2. Report on the status of land reform in El Salvador prepared by the Department of State pursuant to section 101(b) of the second continuing resolution for fiscal year 1984, dated January 25, 1984.....	263
3. Cable from the U.S. Embassy in El Salvador regarding Tutela Legal's statistics on the number of noncombatants murdered in El Salvador, dated January 1984.....	289
4. Response by Americas Watch to the U.S. Embassy cable regarding Tutela Legal's statistics on the number of noncombatants murdered in El Salvador, entitled "Protection of the Weak and Unarmed: The Dispute Over Counting Human Rights Violations in El Salvador," dated February 1984.....	291

THE SITUATION IN EL SALVADOR

THURSDAY, JANUARY 26, 1984

HOUSE OF REPRESENTATIVES, COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEES ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS AND ON WESTERN HEMISPHERE AFFAIRS,

Washington, D.C.

The subcommittees met at 1:40 p.m., in room 2172, Rayburn House Office Building, Hon. Michael D. Barnes (chairman of the Subcommittee on Western Hemisphere Affairs) presiding.

Mr. BARNES. We will go ahead and start the hearing. I apologize for the delay. We were voting in the House and were unavoidably delayed.

We meet today to continue our oversight on U.S. policy toward El Salvador. I would like to begin by noting—and not without some frustration—that this is the 20th time we have held hearings on the situation in El Salvador. It has been almost 3 years since I chaired the first of these hearings, and it seems tragic that so little has changed.

POCKET VETO OF CERTIFICATION BILL

Had President Reagan not pocket vetoed the bill continuing the certification law, this hearing would have been to review the fifth Presidential certification. That veto was, I think, a mistake because it sent exactly the wrong signal to El Salvador.

And in Washington, it seemed to signal a rejection of a role for the Congress in our foreign policy toward Central America. Certainly, the certification process as implemented had its flaws, which I pointed out on a number of occasions, but when a bill has bipartisan support and passes both the House and Senate unanimously, it represents the will of the majority.

So that will may not be thwarted, 80 Members of the House are today joining me in reintroducing the bill that was pocket vetoed. I expect that we will be able to take this measure swiftly to the floor so that we leave no doubt in our position that U.S. aid to El Salvador may continue only under legislatively established conditions. And those conditions must be met.

Any other members that wish to make opening statements? Let me caution you, we have a serious time crunch this afternoon. The Secretary of State will be in this room at 3:30 to meet with the Foreign Affairs Committee, and we have to be out of here by 3:15.

I hope the opening statements will be brief.

I wish to recognize the chairman of the Subcommittee on Human Rights, the gentleman from Pennsylvania, Mr. Yatron.

Mr. YATRON. I commend the chairman of the Subcommittee on Western Hemisphere Affairs for his leadership in holding this joint hearing and for the outstanding leadership he has shown on the issue of American involvement in Central America.

In the last year, U.S. involvement in El Salvador and throughout Central America has escalated greatly as the problems of the region have become more complicated.

Clearly, the United States does have an important security interest in El Salvador. A military victory by the guerrillas would undermine our objectives of peace and democracy for the entire Central American region.

However, these objectives are also threatened by criminal elements of the El Salvadoran military and the right-wing death squads which continue to indiscriminately kill innocent people.

To the administration's credit, and largely in response to pressure by members of this committee, El Salvador at long last has taken some positive steps in recent months to curtail these abuses.

Some members of the armed forces suspected of involvement with these death squads have been transferred out of the country where they can no longer commit their brutal acts of savagery against the Salvadoran people. But this progress is far from enough.

The level of civilian killings continues at an alarming rate. Moreover, I fear that the President's decision to pocket veto the Human Rights Certification has sent a message to those responsible for these killings that the United States no longer considers human rights to be a clearly stated requirement for continued military support.

Last night, the President urged the American public to move forward with the recommendations of the bipartisan foreign policy. I sincerely hope that the administration and Congress can work together.

However, the administration must realize that cooperation and support is not a one-way street. If we are to accomplish our objectives, the administration must be willing to embrace a more comprehensive policy based on a political dialog with all parties involved in the various disputes in Central America. Serious consideration of the Contadora process would be a good start.

Mr. Chairman, I commend you for undertaking a leadership role on this critical matter, and I look forward to hearing testimony from our distinguished panel of witnesses.

Mr. BARNES. I thank my friend for his comments and recognize the gentleman from California.

Mr. LAGOMARSINO. I thank the chairman.

I would like to ask that my statement be included in the record at this point.

Mr. BARNES. Without objection.

Mr. LAGOMARSINO. I will make a few comments from it.

I am pleased the subcommittees are holding these hearings today so that we may review U.S. policy toward El Salvador. I believe our interests are vitally connected with the goal of achieving a stable,

democratic government in that nation, accompanied with economic growth, social development and respect for human rights.

I had the honor of accompanying Vice President Bush when he stopped in El Salvador as we returned from the inauguration of Argentine President Alfonsín. The Vice President made it perfectly clear in his public comments that he, as well as the President, the Congress, and the American people, condemned the actions of the death squads in El Salvador. In his private comments, the Vice President was even more blunt, particularly in his discussion with Salvadoran military leaders.

I think it is important to emphasize that the administration has not all of a sudden discovered the problem of the death squads. The administration, the Ambassadors in El Salvador, many Members of Congress on both sides of the aisle, including myself and my Republican colleagues on the subcommittee, have made direct personal appeals for action on stopping the death squad activity and also, I would add, for action on bringing to justice those responsible for the deaths of Americans.

I want to commend the administration for the report submitted on January 16 on the situation in El Salvador. I consider it to be a comprehensive, well-focused perspective on the historical developments leading to the current political, economic and security conditions. The report makes clear the reasons for the U.S. commitment to El Salvador and the need for continued support.

And lastly, I want to commend the gentlemen before us. All three have brought a dedication to their positions which has brought renewed respect for their bureaus in the State Department and for the implementation of U.S. policy in this hemisphere.

[The statement of Mr. Lagomarsino follows:]

PREPARED STATEMENT OF HON. ROBERT J. LAGOMARSINO

Mr. CHAIRMAN. I am pleased the subcommittees are holding these hearings today so that we may review U.S. policy toward El Salvador. I believe our interests are vitally connected with the goal of achieving a stable, democratic government in that nation, accompanied with economic growth, social development and respect for human rights.

I believe these hearings offer an opportunity to clear up some of the misconceptions about what the United States is trying to accomplish in Central America in general and El Salvador in particular.

I had the honor of accompanying Vice President Bush when he stopped in El Salvador as we returned from the inauguration of Argentine President Raul Alfonsín. The Vice President made it perfectly clear in his public comments that he, as well as the President, the Congress and the American people condemned the actions of the death squads in El Salvador. In his private comments, the Vice President was even more blunt, particularly, in his discussion with Salvadoran military leaders. I think it is important to emphasize that the administration has not all of a sudden discovered the problem of the death squads. The administration, the ambassadors in El Salvador, many members of Congress on both sides of the aisle, including myself and my republican colleagues on the subcommittee, have made direct, personal appeals for action on stopping the death squad activity and also, I would add, for action of bringing to justice those responsible for the deaths of Americans.

The administration and we, who are the minority on this subcommittee, do not oppose the concept of having conditions on aid to El Salvador. I think the problems arise on this issue only in terms of what is the most effective way to implement conditions on aid. I also believe it is important to decide whether certification for aid should reflect progress toward certain goals or perfection in achievement of those goals. If perfection is the criterion, then no nation in the world should receive U.S. aid.

I want to commend the administration for the report submitted on January 16 on the situation in El Salvador. I consider it to be a comprehensive, well-focussed perspective on the historical developments leading to the current political, economic and security conditions. The report makes clear the reasons for the U.S. commitment to El Salvador and the need for continued support.

And lastly, I want to commend the gentlemen before us. All three have brought a dedication to their positions which has brought renewed respect for their bureaus in the State Department and for the implementation of U.S. policy in this hemisphere.

Mr. BARNES. Any other opening statements?

If not, we will go directly to our witnesses and I want to welcome to the Foreign Affairs Committee this afternoon the Honorable Langhorne A. Motley, Assistant Secretary of State, Bureau of Inter-American Affairs; the Honorable Elliott Abrams, Assistant Secretary of State for Human Rights and Humanitarian Affairs; and Mr. James Michel, Deputy Assistant Secretary of State, Bureau of Inter-American Affairs is also present and was listed as one of the witnesses this afternoon. And I see numerous other luminaries from the administration in the front row and elsewhere throughout the room, and we are pleased to have you here this afternoon.

You know, because your boss is going to be here at 3:30, that we have these time constraints, so we will be grateful for as much brevity as possible in the opening statement so we can get into questions quickly.

Gentlemen, welcome.

STATEMENT OF HON. LANGHORNE A. MOTLEY, ASSISTANT SECRETARY OF STATE, BUREAU OF INTER-AMERICAN AFFAIRS, ACCOMPANIED BY ELLIOTT ABRAMS, ASSISTANT SECRETARY OF STATE, BUREAU OF HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, AND JAMES MICHEL, DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU OF INTER-AMERICAN AFFAIRS

Mr. MOTLEY. What we have planned to do, in the interest of time, is put all our oral statements into one. I will give it in the form of a presentation. You have before you in the last week or so several documents. One is the report on El Salvador submitted by the President, January 16. The other is another complete report on land reform submitted yesterday, and Mr. Elliott Abrams' written statement is a comprehensive address of the human rights situation.

I would like to give you just a quick, oral overview of the highlights of those reports, and we are going to use a few graphs to assist us in getting some of the information across.

I think the first thing is to start with just an item of general interest which is population density in El Salvador. We talk about trying to get economic assistance and political judicial reforms down there. The population density is higher than India, and certainly higher than the United States.

REPORT ON LAND REFORM

Land reform—we are not talking about opening up the West. We are talking basically about readjusting ownership patterns. If you look at landownerships in El Salvador—this figure says 1971, but still held true in 1979—and we use that as a benchmark prior to

the revolutionary junta—15 percent of total farmland was in large plantations over 1,200 acres, with 1 percent of the population owning 40 percent of the land. That was the situation in 1979. The rest of this was in private ownership in multiples of large tracts.

The economy of El Salvador through 1979 can be described as a go-go economy in the seventies with double-digit percentage growth in those years. The real per capita income up to 1979 increased significantly. In 1979, we come to a watershed, the revolutionary junta and the pledges they made, a pledge to end violence and corruption, hold elections, and institute agrarian reform. We will review those steps since then and see where there is progress.

Starting with land reform, they are known basically as phases I, II, and III. Chronologically, I, III, and II. Phase I was done by fiat, and affected all farms larger than 1,235 acres. They immediately formed 317 cooperatives of those who had worked the land, and the ownership was transferred to the cooperatives.

Phase III—land to the tiller, 1980, a more difficult one from a paperwork point of view, from surveying—it parceled out plots of 17½ acres to the existing renters and sharecroppers; and phase II, which was the most controversial, was not enacted until the constitution was enacted just last month. It encompasses all farms smaller than 1,235 acres and larger than 605 acres. The owners have 3 years to sell to peasants, peasants associations, and small farmers. That was done so they did not sell to their brothers, uncles, or aunts.

If you look at land-to-the-tiller program, what kind of progress was made? Starting from a base of zero, you can see that through the end of 1983 over 75,000 petitions have been filed affecting some half a million people. There is a very complicated process in which petitions are filed, provisional titles are granted, and final titles are granted. As surveying and the rest of it has to go on, the trend stays the same, but there has been a lag, especially in the issuance of final title. One of the things you note is that represents half a million people and 52 percent of those we believe are eligible under the land-to-the-tiller program have in fact filed for it to date.

One of the problems in looking at land reform is that there are some things that give us problems, including evictions. We found that there were 5,000 evictions. These are the reported ones. We can quantify those reported to the reform authorities. Of those reported evictions, almost 4,000 of them, or almost 80 percent have been reinstated on their land. If you take the difference between those two, those that are evicted and not reinstated as a percentage of all those that have filed, you will find that it is 1.7 percent.

We are not under any illusions that these figures reflect all evictions. They only reflect those that are reported. We tried to quantify those numbers that have abandoned their land because of the war or whatever reasons, and we were unable to do so, but we know that there have been abandonments in the land reform program.

In the land-to-the-tiller program, we analyzed the different areas. Was land reform more successful in a peaceful zone or in a war zone? So we broke El Salvador down by departments.

This chart shows you that peaceful zones had a much higher percentage of filings, and those areas controlled by guerrillas, a much

lower one. So if this chart tells us anything, it tells us that when the Government can control the land, land reform has a better chance of succeeding.

Today, in comparison to 1979, 15 percent of El Salvador's total farmland is in phase I as implemented through the cooperatives by fiats in 1980; 6½ percent are in phase III. There is about 10 percent more available for reform. Basically, the rest of the land now is privately owned and worked, land with under 650 acres per owner.

In summary, over half a million people have benefited, some 11 percent of the total population or 24 percent of the rural population.

THE ECONOMY AND WAR DAMAGES

If we look at what happened to the overall economy during that period of time, after 1979 the go-go growth has dropped off. The top line is total GDP, the bottom line is GDP per capita. In real terms Salvadorans today are going back to a level where they found themselves in 1963 with regard to per capita income and somewhat of the same with regard to the overall GDP.

We took a look at what did the war damages, what did they amount to. They are difficult to quantify, and these figures are based upon some run through our Embassy from the Salvadoran Chamber of Commerce. The largest damage was agricultural. Most of the fighting is done in rural areas, and this accounts for damages to crops, to livestock, to equipment, and commerce, industry, the infrastructure, and the rest of it.

If we take a look at the U.S. economic assistance, you can see what this committee and this body has appropriated and an increasing amount of economic assistance peaking in 1983 broken down to ESF, the main part because of budgetary requirements, the development assistance and in the Public Law 480.

If you compare the economic assistance with the war-damage figures, the cumulative U.S. economic assistance is some \$600 million. According to the figures that have been provided us, the cumulative economic dollar cost of the guerrilla warfare is in excess of \$826, so you can see that the cost to the guerrillas has exceeded U.S. economic assistance.

POLITICAL DEVELOPMENTS

This chart lists by year key political developments, and I won't go into all of the details, but it starts with the reformist military coup in 1979 and ends with the elected constituent assembly signing the constitution and the land reform being extended twice more, as well as a lot of other things—amnesty, elections, and so on.

That progress, a lot of it, was due to an elected constituent assembly, and I think it is amply portrayed. On the political left here is the Christian Democratic Party and on the right is the Arena Party.

The reason I show this to you is that a real democratic situation exists there, and that there is no absolute majority within this body that has established the Peace Commission, Human Rights

Commission, and others. Coalitions have had to be formed between the different groups to go through the legislative process, something I am sure you are well aware of.

What did the constitution do? It has codified the freedom of expression. It protects agrarian reform. It has taken the military out of politics. It has outlawed the official party. It strengthens the legislative branch, judicial branch, guarantees habeas corpus, mandates public health and education, and increases workers' rights.

If we get into the area of human rights, a subject of much discussion in this administration and also in this committee, as the chairman pointed out, there are a couple of areas I would like to show. It shows you the different steps in those cases involving U.S. citizen deaths and disappearances starting in 1980 with the four churchwomen, and the steps that have happened since that time: The disappearances of John Sullivan; Michael Klein being killed, and the others. One of the most significant events has been the arrest of Captain Avila.

Looking at the larger picture of civilian deaths, you will find a trend. The top line is an average of the various Salvadoran sources and relied on by a lot of American groups. The second line is a line the U.S. Government has used consistently in all data it has put forward. Regardless of which line you look at in absolute numbers, what you see is that all agree that there has been a significant decrease in civilian deaths from June 1981 through December 1983, and whereas the absolute numbers are not acceptable to anybody, be they 380 a month or 104 a month. Nevertheless, there has been a decrease in civilian deaths.

The recent actions of the Salvadoran Government, which the chairman mentioned, include enactment of the constitution that codifies certain procedures which will be helpful in the area of human rights. There have been actions against death squad members. Four military officers have been transferred. Four members of the assembly's security corps have been dismissed, and the military high command has once more issued regulations and general orders emphasizing the importance of human rights.

We look at the economic and military funding for El Salvador over the years, Mr. Chairman, and you will see we have seen this figure before, the green being military, the blue being economic, and the ratio that is shown, roughly 3 to 1, or a little more in favor of economic assistance.

If we look at military assistance by itself, Mr. Chairman, what this chart shows is in green where the administration requests for military assistance over the years, in red is those figures authorized by Congress, and the black figures are those from reprogramming in which we were able to hope to make up the difference, and the yellow is the more recent authorized but subject to action on the churchwomen and land reform.

In summary, Mr. Chairman, if you look at El Salvador in a worldwide context, you find that the security of economic assistance for fiscal year 1984 accounts for 3 percent of all of that which you have appropriated throughout the world, 49 percent going to Egypt and Israel and the balance of it going to the rest of the world.

I want to give you an overview of some 100-odd pages of the report that is before you.

Thank you.

[The prepared statements of Mr. Motley and Mr. Abrams follow:]

forces. It is preparing direct popular elections for the presidency on March 25, 1984. And it is doing this in the midst of sustained violence from both right and left, including a guerrilla campaign supported by the Soviet bloc through Nicaragua. Of critical concern to all of us, the government of El Salvador is also investigating all murders or disappearances of United States citizens in El Salvador and has instituted judicial proceedings in every case in which sufficient evidence has been obtained.

We have recently analyzed the key elements of El Salvador's attempt to reorder its political and social structure in two lengthy and detailed reports to the Congress. The first is the report on the situation in El Salvador submitted to the Congress at the direction of the President on January 16, 1984. The second is the special report on El Salvador's land reform forwarded to the Congress by the Secretary of State on January 25, 1984, together with the certification required by Section 101(b) of the second Continuing Resolution for fiscal year 1984.

These reports provide a comprehensive assessment of developments in El Salvador over the last four years. They should be considered an integral part of this testimony.

Rather than attempting to summarize those reports, Mr. Chairman, I would like today to place the situation in El Salvador into a historical and policy perspective. I will start by taking 1979 as a base line, then examine major trends in each of three areas: land reform and the general economy, political development including human rights, and finally the security situation, which directly colors every aspect of Salvadoran reality today.

I. The Situation in 1979

In 1979, El Salvador was a country on the eve of a social, economic and political explosion. The only question was whether that explosion would impel El Salvador towards a democratic society, or whether it would lead to renewed minority rule, perhaps even a Communist dictatorship.

El Salvador's population in 1979 was roughly 4.5 million, almost double the 2.5 million of 1960. Population density was among the highest in the world. The distribution of land, the source of most wealth and employment in El Salvador, was highly skewed. Over 40 percent of farm land was controlled by less than one percent of the population.

At the same time, two decades of high economic growth had begun the economic modernization of the country. In fact, between 1960 and 1979, economic growth was so high that,

despite rapid population growth, real per capita income rose by roughly 50 per cent. The manufacturing and service sectors -- the modernizing engines of the economy, essential to relieve pressures on the land -- both expanded rapidly.

A generation of expansion and growth profoundly changed popular expectations, accelerating the erosion of traditional relationships and setting the stage for major social and political transformations.

Nineteen seventy-nine was a key political year.

- The traditional order, previously based on an implicit compact between the economic elite and the military hierarchy but weakening under the pressure of increasing social unrest, was finally shattered by a military coup led by reformist officers on October 15, 1979;
- Leftist extremists, emboldened by the Sandinista takeover in Nicaragua and encouraged by Cuba, turned increasingly to violence as the road to total power; and
- A reformist junta that included representatives of the military, political parties, the private sector, and the left was formed, but broke apart within six weeks when the leftist faction withdrew.

In response, in January 1980, the Christian Democratic Party -- widely believed to have won the elections of 1972 and 1977 -- joined with the military leaders who staged the October coup to form a Revolutionary Governing Junta. In keeping with its name, this coalition -- opposed by the far right as well as the far left -- embarked upon a program of major reform and restructuring. This government decreed land, banking and foreign trade reforms and carried out political reforms leading to Constituent Assembly elections, while reducing violence against civilians and waging an effective war against the guerrillas.

II. The Land Reform

El Salvador's agrarian reform is one of the major stories of the past four years.

The reform was divided into three phases. The creation of cooperatives from the larger estates under Phase I has been fully completed. In the Phase III ("Land to the Tiller") program, 53 percent of the potential beneficiaries have applied for land. Final titling is proceeding slowly but steadily. Phase II, long suspended for financial and administrative

reasons, was reactivated in December 1983 with the enactment of a new national constitution.

To date, the reform has benefitted some 550,000 formerly landless peasants and their families. And the program remains active. Last December, almost 1900 new provisional titles were issued under Phase III.

One indication of the government's commitment to land reform is that the percentage of eligible campesinos who have filed for land is highest in those areas that are peaceful. In the departments of Ahuachapan and La Libertad, where guerrilla violence is limited, the filings approach the entire eligible universe. Filings have been lowest in conflictive areas such as the departments of Chalatenango and San Miguel, where guerrilla activity has intimidated potential beneficiaries and blocked government promotion efforts.

The land reform program faces other serious problems. Among them are the need to speed up the process of repaying former owners, and to end the violent eviction of the "land to the Tiller" beneficiaries. There is a significant relationship between compensation and evictions: Final title to land reform beneficiaries can only be transferred upon completion of payment to the former landowners; delays in payment have motivated to evictions. The U.S. Government's ability to assist in easing this problem has been limited by legislation prohibiting the use of assistance funds for the payment of compensation.

In spite of the problem of evictions, the best available data indicates that at least 85 per cent and probably more than 90 per cent of applicants are working their land without interference.

Although productivity on reformed lands has reached levels comparable to the traditional sector, there is still a need for better management of the cooperatives and for increased technical assistance to all beneficiaries.

The Salvadoran Government is fully aware of these problems and is seeking to resolve them. A recent, highly professional survey to examine the scope of the evictions problem is one example of its efforts. It was followed by a renewed effort to restore beneficiaries who had lost their land illegally. The provision of additional financing to reformed farms is another example. But in the face of guerrilla war and deteriorating economic conditions -- which limit the availability of resources and sets one faction against another in the search for scarce funds, progress is doubly difficult.

III. General Economic Trends

El Salvador's economy faces critical difficulties. Since 1979, gross domestic product has fallen by 25 per cent in real terms and exports have dropped by 40 per cent.

In the late 1970's the international economy turned down. El Salvador's major exports, coffee, cotton and some manufactured goods, were no longer capable of financing needed imports. Even the drop in the price of oil after 1981 did not fully benefit countries like El Salvador because their major exports were also declining in value.

Economic and political uncertainty fueled an outflow of private capital and a decline in international reserves. Unemployment had been relatively modest during the 1960's and 70's, but suddenly began to shoot up in 1978 and now reaches some 40 per cent.

The guerrillas contributed dramatically to these economic problems. Guerrilla efforts to undermine the national economy destroyed buses, bridges, electrical pylons and places of work and production. The cumulative cost to the economy has been estimated at \$800 million or more.

U.S. economic assistance grew from \$52 million in 1980 to over \$200 million in 1983, but has not been sufficient to offset the damage inflicted by the guerrillas.

The Salvadoran economy remains fragile. While the negative slide of 1978-1982 appears arrested, unemployment and underemployment remain at starkly high levels.

On the positive side, there are some signs of increased business confidence. Labor union membership, after turning down in the early 1980's, has again begin to build up and almost has returned to the peak levels of the late 1970's.

IV. Political Developments

Supported by a continuing flow of arms, training, and assistance in command and control from Nicaragua, Cuba and the Soviet Union, the guerrillas shifted from political to military action during 1980. The far right also stepped up terrorist activities against both the left and the government's reforms. The result was a peaking of politically motivated violent deaths at over 800 a month in parts of 1980 and 1981.

The violence, however, did not prevent the opening up of the political system and the restoration of government accountability through elections. This new political dynamic began with elections for a Constituent Assembly in March 1982.

Six parties, from the political right to the center-left, fielded candidates for the 60 seats in the Assembly. Some 1.5 million Salvadorans voted; only the extreme left refused to participate. The elections were administered by an independent Central Elections Council. According to the eyewitness accounts by invited observers and international journalists, the elections were fair, open and representative.

The March 1982 elections produced an Assembly in which no party held an absolute majority. A multi-party Government of National Unity, named by the Constituent Assembly, has functioned slowly but successfully by consensus.

In the summer of 1982, President Alvaro Magana, a civilian independent, brought together the parties in the government in a common program known as the Pact of Apaneca. This program established a framework for progress on land reform, human rights, and social and political dialogue.

During 1983, more than 1000 political prisoners, guerrillas and guerrilla supporters were amnestied.

Presidential elections are scheduled for March 25 of this year and legislative and maycrality elections for early 1985. The Government of El Salvador sought through direct talks held by its Peace Commission to encourage the guerrillas to participate in the forthcoming elections. El Salvador's Peace Commission remains prepared to meet with the armed left and its political associates to discuss their participation in free elections, including physical security for candidates and access to the media.

The new constitution, which entered into force on December 20, 1983, establishes a republican, pluralistic form of government; strengthens the legislative and judicial branches; improves safeguards for individual rights; and protects the legal bases of the land reform.

The Salvadoran military has been at the forefront in protecting and defending the reforms of the last four years. The land reform would not have been physically or politically possible without strong armed services support. Similarly, the military's firm commitment to protect free elections this March will be a key factor in ensuring that voters will be able to cast their ballots without coercion from either left or right.

V. Human Rights

Continued abuse of human rights remains a central problem, despite efforts to end violence from the terrorist right as well as the guerrilla left.

There has been steady and measurable, if still insufficient, reduction in the levels of political violence as reported in the press and by the various Salvadoran human rights groups. This is documented in our report of January 16, 1984.

Major efforts are underway to ensure more effective functioning of the criminal justice system. The new constitution and the efforts of the Salvadoran legal reform commissions mark greater judicial independence. The governments of El Salvador and the United States are developing programs to improve judicial protection and investigative capacities and to modernize penal and evidentiary codes.

There has also been movement in a number of cases involving U.S. citizen victims. Judicial proceedings are underway as a result of investigations into the murders of Ita Ford, Maura Clarke, Dorothy Kazel, Jean Donovan, Michael Hammer, Mark Pearlman and Michael Kline. The cases of the churchwomen and Michael Kline should reach the final stage of trial in the next few months. Investigations continue without result into the death of John Sullivan, the disappearance of Patricia Cuellar, and the murder of Lt. Commander Albert Schauffelberger.

The government continues its efforts to curb the violence of the far right and its sympathizers within the Armed Forces. Strict new orders have been issued requiring, among other things, that uniforms be worn when arrests are made, that public notification of arrest be made, and that prisoners be turned over to a judge expeditiously. COPREFA, the Armed Forces press office, made the first announcement of a major arrest this week; some 15 persons were arrested, apparently at a clandestine political meeting with more than 80 present. Civilian and military officials suspected of violent far right activity have been removed from their positions and, in several cases, stationed abroad.

VI. Security

These economic, political and social developments have all occurred against a backdrop of intense guerrilla conflict.

Guerrilla activities since 1980 do not indicate any expansion of their influence among the general population. Indeed, the guerrilla strategy of targetting the economy has hurt the poor the most and has been extremely costly to the guerrillas in terms of popular support. Nevertheless, the guerrillas' training, communications, and armament have all improved greatly.

Cuba and Soviet bloc assistance channeled through Nicaragua has permitted the various Salvadoran guerrilla forces to

coordinate their activities, accumulate stocks of war materiel and upgrade their fighting capabilities. Recent reports that Nicaragua may be reducing direct support for the Salvadoran guerrillas or closing off their command-and-control center in Nicaragua are not borne out by the evidence.

That the guerrillas are far better organized and armed today than four years ago has increased their capacity to engage the Salvadoran armed forces and to carry out their destruction of the nation's infrastructure.

We estimate that somewhere between 9 and 11 thousand guerrillas are now actively engaged in the field against the Salvadoran armed forces. Their strategy is based on the advantages of mobility in hit and run tactics. They take advantage of the Salvadoran armed forces' need to protect static positions (cities, bridges, dams, etc.) while at the same time providing the manpower and maneuverability necessary to wage an effective offensive campaign.

This point is made explicitly with regard to the coming elections by FDR/FMLN spokesman Ruben Zamora. As published in the January 17, 1984 edition of the Baltimore Sun, Zamora said the elections would be

"a military problem for the Salvadoran government. (In order to) reinforce the defense of towns, the Army has to withdraw from other zones. That will allow the FMLN forces a good opportunity to advance. In that sense, the Salvadoran army has a growing problem in providing security for the election."

U.S. military assistance has been an important element in preventing a guerrilla victory. This assistance, however, has consistently been below the Administration's requested levels. For example, in fiscal year 1984 the Administration requested \$86.3 million: the Continuing Resolution provided \$64.8 million. And because 30 per cent of this amount is withheld by law until a verdict is reached in the churchwomen case, only some \$44 million is available to address El Salvador's immediate and serious security problems. Over \$25 million of this \$44 million has already been obligated and requests for an additional \$13 million are currently being processed. Funds will run out soon, possibly on the eve of elections.

The Salvadoran military has significantly increased in size. U.S. training has increased. Nevertheless, a number of serious gaps continue. There are still too few U.S. trained troops and the size of the Salvadoran commissioned officer corps is insufficient to lead the rapidly expanding army in time of war. The latter has been a particular problem for command and control, military discipline, staff functions and the general management of the war.

Although restructuring will improve the military's performance, the stalemate is unlikely to be broken without substantially increased resources.

The military strife has displaced nearly ten per cent of El Salvador's population. Although approximately 75 per cent of the displaced receive Salvadoran government aid, more should be done to ameliorate their situation.

VII. Conclusions

U.S. assistance has helped El Salvador maintain a democratic, centrist alternative to the extremes of the far left and the far right.

Our economic assistance has allowed El Salvador to advance important reform programs, reduce the impact of guerrilla destruction, and arrest the overall economic decline. But a great deal more remains to be done to enable El Salvador to restore the growth patterns achieved before 1979.

Similarly, U.S. military assistance has helped to strengthen and professionalize the Salvadoran military. It has enabled the Salvadoran government to maintain a stalemate against externally supplied guerrilla forces. But it has not been enough to end the fighting.

The National Bipartisan Commission on Central America concluded that:

When strategic interests conflict with moral interests, the clash presents one of the classic challenges to confront societies and statesmen. But in Central America today, our strategic and moral interests coincide.

This conclusion holds true with particular force for El Salvador. The policy the Administration has been following with the support of Congress brings our strategic and moral interests together in support of better government in El Salvador. Our strategic interests are to ensure that El Salvador does not fall prey to the Soviet Union or its surrogates, for that would damage U.S. foreign policy and security. This inevitably commits us to see that El Salvador makes progress toward democracy, human rights and a decent life for all of its citizens, and that our assistance contributes to those goals.

This coincidence of interests has produced the outlines of a truly bipartisan policy. In the coming weeks, following up on the recommendations of the National Bipartisan Commission on Central America, the Administration will request significant additional funds to address the economic, social and security needs of El Salvador. In the words of the Commission:

"There might be an argument for doing nothing to help the government of El Salvador. There might be an argument for doing a great deal more. There is, however, no logical argument for giving some aid but not enough. The worst possible policy for El Salvador is to provide just enough aid to keep the war going but too little to wage it successfully."

The record in El Salvador demonstrates that our assistance has had a positive and measurable impact. Additional assistance is justifiable and urgently needed.

Thank you.

PREPARED STATEMENT OF HON. ELLIOTT ABRAMS, ASSISTANT SECRETARY OF STATE
FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

It is a pleasure and a privilege for me to be here today. In my testimony this afternoon, I would like to respond to a question frequently asked about our El Salvador policy. The question is: Should military aid to El Salvador be tied to human rights improvement there? To this question, this Administration has a clear answer: It should. The issue is, precisely how?

There are two reasons why the Reagan Administration believes that military assistance to the Salvadoran government should be conditioned on its human rights performance. First, simple compassion and decency require us to exercise the leverage we have on behalf of improved human rights performance. Second, we realize full well that the guerrilla war being fought in El Salvador today is at bottom a contest for the allegiance of the Salvadoran people. A government which fails to do all it can to end human rights abuses cannot, over the long run, hope to maintain its people's allegiance. Thus, both our moral concerns and our security interests require us to insist on the principle of conditionality.

Unfortunately, some of our critics have confused the public debate on this issue by charging that we reject the principle of conditionality. Citing President Reagan's

veto of the all-or-nothing certification process last December, these critics claim that this "proves" our lack of interest in human rights. They could not be more wrong.

For over two years, Mr. Chairman, the Administration had made clear its doubts about the certification mechanism vetoed by the President last December. We pointed out that it contained a built-in incentive for the violent right and left to step up their activities at certification time in an effort to force the US to cut its support for the democratic center. Also, the certification had failed to ask the key questions about El Salvador: Do the people support the government? Would a total aid cutoff improve the human rights situation? Would a total aid cutoff risk a guerrilla victory -- and what would the effects of that be on human rights? To facilitate a military victory for Marxist-Leninist guerrillas who wish to build a Cuban-style dictatorship, by arguing that the cause of human rights requires an aid cutoff that will allow this victory, is a truly astonishing position. The cause of human rights does not require facilitating communist advances.

Yet our strong objections to the way the all-or-nothing certification process was designed do not imply that we reject linking military assistance to human rights improvements. On the contrary, the Administration shares the view expressed by so many in the Congress, and by the National Bipartisan Commission, that continuing and increasing American aid must be linked to the human rights situation in El Salvador. The

Commission's report does not attempt to suggest new legislative language, and clearly this will be a matter of careful discussion between the Administration and Congress. Our goal must be to write a statute which, as the Commission suggests, ties military aid to human rights progress, yet avoids artificial deadlines and all-or-nothing choices.

Mr. Chairman, I recognize that many of this Administration's critics have claimed that the only way of forcing the Administration to work for human rights progress in El Salvador is through the Congressional certification requirement. I would remind these critics, however, that as early as March 1981, just six weeks after coming into office, President Reagan denounced "terrorism of the right or left in El Salvador." Most recently, this past fall, the Administration has further emphasized its support for democratic party and trade union leaders. Among the actions the Administration took were visits to El Salvador in which the need for improved human rights performance was emphasized by Secretary of Defense Weinberger, Under Secretary of Defense Ikle (a visit in which I participated), and Vice President Bush, as well as major speeches on the issue by Under Secretary Ikle, Ambassador Pickering and Deputy Secretary of State Dam. In the period since the veto the message has been very clear, and it has been getting through. Surely, by now, it is apparent that the Administration is no less concerned than the Congress about human rights violations in El Salvador, and no less determined than the Congress to help bring these violations to an end. Indeed, Administration

pressure on the government of El Salvador has been fully maintained in the period since the President's veto of the certification requirement. The question is not whether the U.S. should be putting heavy pressure on El Salvador to improve its human rights performance, not on the principle of conditionality. Rather, the basic disagreement is over whether it is appropriate to do this through the type of legislation vetoed by President Reagan last December.

Mr. Chairman, the Administration and the Congress are allies, not adversaries. We both seek to promote human rights in El Salvador. It is my hope that working together we can and will devise means to support our common objective: to strengthen the democratic center in El Salvador against extremists of both the right and the left.

Mr. BARNES. The certification law that the President pocket vetoed today, would you have recommended to the President that he make the required certification, that the circumstances in El Salvador permitted such a certification to be made?

Mr. MOTLEY. That is a difficult question for us to answer as to whether we would do it.

The spirit of the report that the President submitted to you on January 16 covered all those items that you would have required for a certification. The intent was to provide for you that information that was available, reflected in those charts, and in much deeper facts and figures, and not whether one can certify or not certify. The thrust of our thinking has been to provide you with the information in the timeframe which you have required.

Mr. ABRAMS. I would have recommended certification. I think there has been significant progress since the last certification. That was a very close call. Witness the tone of the cover letter the Secretary sent up with the certification. But since then, there has been a lot of American pressure, and there has been a fair amount of progress in El Salvador. Especially since the veto, there has been a lot of increased American pressure on performance in El Salvador.

Mr. BARNES. You would have recommended certification?

Mr. ABRAMS. Yes.

Mr. MOTLEY. I never thought of it in that context. I was looking to provide the information for the Congress, the report from the President. I just have not looked at it in that context.

YOUNG REPORT ON FOREIGN EXCHANGE MANAGEMENT

Mr. BARNES. I have a two-volume study of foreign exchange management in El Salvador, the central basic foreign management

which was provided to our subcommittee by AID. It was done by Arthur Young & Co., at their request.

The study that we received from AID does not have a classification stamp of any kind on it, but I am told that yesterday it was classified after a reporter asked to see it. In view of its now apparent classification, even though the document I have doesn't say it is classified, I will not quote from it or release it, but I can say that it demonstrates rabid mismanagement and corruption in the use of the foreign exchange assistance that the United States has provided to El Salvador through AID.

Do you know of any reason why the American people shouldn't be entitled to have access to this document and why it was apparently classified yesterday?

Mr. MOTLEY. I am not really sure I know what document you are talking about.

Mr. BARNES. It is "Policy and Management within the Central Reserve Bank of El Salvador." It was prepared for the Central Reserve Bank of El Salvador, and the U.S. Agency for International Development, by Arthur Young.

Mr. MOTLEY. I don't know about the report. The best thing we can do is go talk to the AID people and find out how we can be responsive to your question.

Mr. BARNES. Thank you.

Let me recognize the chairman of the Human Rights Subcommittee, Mr. Yatron.

DEATH SQUAD ACTIVITY

Mr. YATRON. Secretary Abrams, I have a copy of the report. Here on page 14, in reviewing the State Department's report on El Salvador, I note that the average number of civilian deaths per month declines from a high of 444 per month in 1981, to 140 per month for all of 1983.

Now, assuming that these figures are accurate, most of the progress was made during the period when the certification was law. Don't you think that there is a connection between the certification and the decline of the deaths per month?

Mr. ABRAMS. I think there is a clear link between the attitude of the U.S. Government and pressure from the U.S. Government on the one hand, and progress on human rights in El Salvador, but I don't think you can say it is the certification. I don't think we can prove it one way or the other, because we don't know what would have happened if there had been no certification.

There has been marked progress on the death squads since the veto, so it is very hard to point to the certification and say well, that is why there was progress. It may be. One could argue to the contrary—that is, that when or since the veto, it has been clear to the Government of El Salvador that the pressure they are getting is coming from President Reagan. Not despite his real wishes, because Congress is forcing him to do it, it is coming from President Reagan. That gives it extra clout. It is impossible to prove it one way or the other, but there is no indication that the certification is solely responsible for it.

Mr. YATRON. What agencies or forces within the El Salvadoran Government are responsible for investigating abuses committed by the death squads?

Mr. ABRAMS. There is the relatively new Human Rights Commission which investigates individual cases when they are reported to the Commission. For example, if someone disappears, they will take that case and try to find that person and succeed in a number of cases.

There have been cases where individuals were arrested by the National Police and one of their functions is to look into this, but I believe that we have noted here that the Government of El Salvador feels it does not have sufficient investigatory capability, and has asked for our assistance to help build a better ability.

Mr. YATRON. Is the Defense Ministry in charge of these investigations?

Mr. MICHEL. Mr. Chairman, the legislation providing continuing funds for fiscal year 1984 contains new authority for U.S. assistance in this area of improving investigations in a judicial context with a view toward prosecution of individuals through the courts.

We have had some discussions with the Government of El Salvador about how they might carry through on their desire to improve their own investigative capability and how we might be of assistance to that effort.

We will have visits shortly to El Salvador by a team of FBI training experts, and by experts in the areas of witness and judicial protection from the Justice Department and the U.S. Marshals Service.

We would hope to be in a position to consult with your committee when we have a little bit more information, and we have a little further discussions. The Ministry of Defense will be involved, the Ministry of Defense and Public Security, and has the responsibility for law enforcement as well as the military effort.

Mr. YATRON. Thank you, Mr. Chairman.

Mr. BARNES. Mr. Lagomarsino.

VICE PRESIDENT'S TRIP

Mr. LAGOMARSINO. Secretary Motley, my impression was that when Secretary Motley and I and Vice President Bush and others were in El Salvador and the Vice President delivered the message to the Salvadoran officials about the death squads and other human rights violations that they were sincerely interested in doing something about it.

How would you, Secretary Motley, how would you describe what has happened since then, and how much of it do you think is a direct result of the Vice President and of course of the President's letter at the same time?

Mr. MOTLEY. The Vice President has been, and I am reluctant to attach specific results to any specific comments, and I think that is a prudent way to proceed. His trip was a very key element in the whole process that we had been carrying out, and that was entering into dialog with the Salvadoran Government, expanding those with whom we talked, the numbers and who they were. There is a growing element within their Government that wants to achieve

the same human rights results that we are after. The Vice President's trip was a very significant step in that whole process of what is it we can do to help you get the results we want, and here are the results we want.

I have been encouraged with the results that have come up since that process has continued, including the significant visit of the Vice President and preceded by the letter from the President. I think we will see continuing improvement along those lines.

Mr. LAGOMARSINO. When you showed us the charts and especially the one relating to damage to the economy in El Salvador, does that chart include losses of crops due to failure of the ability to crop dust, for example?

Mr. MOTLEY. It is a difficult chart to put across, but it is conservative rather than lost opportunities and these kinds of things. I will get you the full list of the methodology, but it is basically physical damage to areas, bridges gone, 50 percent of the rolling stock in trains, 700 buses, farm equipment, electrical stations, livestock, this kind of thing.

Mr. LAGOMARSINO. One of the strategies in El Salvador was to shoot down crop-dusting planes and in others to achieve the same result by warning pilots that they would be shot down if they tried to dust the cotton, and, of course, failure to do that results in an economic loss?

Mr. MOTLEY. We have heard the same thing as to reports of threats to shoot down.

I will get you the report.

[The information follows:]

United States Embassy estimates of war-related damages to the Salvadoran economy during the period from 1979 through 1983 include the following:

	<i>Millions</i>
Agriculture	\$353.5
Commerce and industry	99.1
Diverted Government spending	252.9
Infrastructure	120.5
Total	826.0

Damages to the infrastructure include destruction of railroad rolling stock, damages to the electrical and water systems and destroyed bridges, buses, and crop dusting planes as well as industrial plant and agricultural machinery.

Mr. LAGOMARSINO. I don't think we have to diminish the importance of human rights. It seems to me unless basic human rights are observed and the Government takes the right kind of action to clean up the act, that the whole thing is not going to succeed anyway, so it is not a question of either/or, but how you get there.

What is the bottom line in El Salvador? What happens if all military aid is cut off? Would that promote a political settlement in El Salvador in your opinion?

Mr. MOTLEY. A political settlement in the context that you have put it—that is, will the Government then negotiate power sharing with the guerrillas—I don't think so. You have hit the nail on the head.

I have found that there is a growing circle of responsible Salvadorans, many of them in the Government, that recognize that to win the war, they need to clean up or improve their performance

on human rights, and they certainly would not be able to maintain the peace if they don't have the confidence of the people with regard to judicial process.

I have found a growing circle within the Government that recognizes that is an element of winning the war.

Mr. LAGOMARSINO. Would cutting off military aid improve the human rights conditions?

Mr. MOTLEY. I don't think so.

Mr. LAGOMARSINO. You didn't speak about the electoral process the Government is now engaged in with an election planned March 25. What is the situation with regard to that now?

Mr. MOTLEY. The constitution is in place. The election law is done. They are proceeding toward that election, which will be held on the March 25. Obviously, the guerrillas are going to make a major effort to disrupt it, prior to then. The Government's job, then, becomes to maintain peace so the election can be carried out.

Based upon their prior performance in March 1982 and their ability to control the situation, we are optimistic that they will, and I am sure that the Salvadoran Government will invite the international observers as they did before. The election will proceed along those lines. They have learned a lot from that election. They hope to improve on this one.

Mr. LAGOMARSINO. Are all of the political parties supporting the electoral process now?

Mr. MOTLEY. That is correct.

Mr. BARNES. The gentleman from Iowa, Mr. Leach.

FIGURES AND METHODOLOGY FOR DEATH SQUAD STATISTICS

Mr. LEACH. Mr. Secretary, in your report to Congress on January 16, there is the notation that press reported deaths are down in the last 6 months or so, and yet the four other major human rights monitoring groups don't show that trend. They show about the same amount of deaths in that period.

Is your methodology better than those groups, particularly given the fact that you rely exclusively on press reported deaths?

Mr. MOTLEY. Two comments on that, Mr. Leach.

One is that in the chart that I provided for you there you will find an amalgamation of the various different reports, and those are used by the different Salvadoran sources and by U.S. groups. The U.S. Government, back in 1981, elected one methodology which was the press reports, and it has stayed with that methodology and not changed, not knowing which direction it may or may not go.

Mr. LEACH. The implication of methodology and consistency in the American context, you can say this, that you will have fair trends. The notion of putting integrity behind statistics that are simply press reported in a country like El Salvador is to present a less than honest picture.

Mr. MOTLEY. The main thrust, I think we made a fair effort in the report and also in the graphs that we use to show the different methodologies. We are not trying to prove absolute numbers. We don't dwell on absolute numbers. All of the sources show that there has been a significant decrease.

Mr. LEACH. The statistics I have from the Human Rights Commission of El Salvador, a private group, say that is not the case. It is approximately a similar situation with Tutela Legal. Sometimes statistics can be misleading. In the height of the Vietnam war, I talked about death counts in Vietnam, and I made the point it is like walking down the street. If you were to bump into someone coming out of a bank carrying a gun and you ask—what are they doing; and the person says, "They are waiting for a car," they are telling the truth but not revealing the true picture.

Is a true picture being revealed in the statistics that are based upon press reports of deaths, and I would suggest that that is not the true picture.

Mr. MOTLEY. Either way, the ones that you have quoted, and they are from their quotes, we have intellectually kept it honest. The amalgamation of the ones you have just quoted and the ones that we have both show a decrease.

I am not going to hang my hat on absolute numbers. I share your frustration as to the accuracy, but all I am saying is that both of them show a decrease over a period of time.

Mr. ABRAMS. We are not relying on press reports as if they came out of thin air. The fact is, the responsibility of the justices of the peace is to record deaths. The press reports are based on justice of the peace's records about deaths in El Salvador, so it is a little bit better than being a journalistic item. There is a data base behind it.

Mr. MOTLEY. One of the sources that you quoted is—they use battlefield casualties, and we are talking about civilian deaths attributed to violence.

It is a rough problem.

Mr. BARNES. The gentleman from Massachusetts, Mr. Studds.

Mr. STUDDS. I recognize we are both operating under time constraints. You probably would have appreciated a good deal more time to have stated your position.

ADDITIONAL FUNDING

I will combine a question with a statement. Picking up on some of the allusions of the gentleman from Iowa, I came to Congress at the time of the peak of the controversy over the war in Vietnam, and I learned to distinguish between the world presented by charges given Members of Congress, by the Department of State, and Department of Defense, and the world in which people lived and worked and died. They turned out to be very, very different worlds indeed, and I guess you would agree with me when I say that certainly—and many of my colleagues see the world and particularly Central America, in a very different light than you have described it consistently for this committee—since 1981 more than \$230 million in military aid to El Salvador, which is about \$40,000 for every guerrilla. Your report calls the military situation at the moment a stalemate.

Indications are that the President will be asking for a great deal more money for military aid next week, perhaps. The Salvadoran Government position and your own with respect to negotiations is that the left should lay down its arms, participate in elections, and

take the risk that the security forces and death squads who have murdered tens of thousands of people will spare them. The opposition doesn't find that opportunity particularly attractive.

Your military or diplomatic relations have made much progress to this point.

The domestic situation parallels the situation in El Salvador. You will get some aid from this Congress, but not enough to make a difference in your own terms in part, because military aid will never solve the real problems down there and the human rights situation will not get better unless wholesale changes are made.

The Congress will probably put some pressure on you, particularly in the area of negotiations. It is easy for you to avoid taking a serious approach to the negotiations by manipulating terms like power sharing. Patience is a virtue in foreign policy, and particularly in dealing with Central America, but I wonder precisely what it is we are waiting for. We have been patient with the military, which does not take prisoners, uses torture, which commits and covers up murder, which doesn't particularly like to fight, and which is linked to death squads which have been denounced over and over again by our own officials who now offer them additional military aid.

We denounce the armed opposition and refuse serious negotiations, but they have grown stronger not weaker, their morale is high, and they are better equipped, better trained, and particularly with respect to the treatment of prisoners, and apparently better disciplined than the Army whom we support. Our policy is not working. I think we are wrong if we think a military victory can be achieved, and that is the bedrock, the heart of current U.S. policy.

We are wrong if we think we can get El Salvador to clean up. We are wrong by promising to triple military aid at the same time we give lipservice to the possibility of cutting aid.

We are wrong if we think serious negotiations are not needed in El Salvador. We are wrong if we see a policy doesn't work, do more of it. That comes back to haunt us.

The further we go down the road which we are now heading, which is a road toward direct American involvement in a Central American war, the more money we will have wasted, and the more lives will have been lost, and I do believe this happens. We could not with honor participate in a war which we could not win and my question is, and the assumption which I would be happy if you could tell me is inaccurate; we are going to be faced next week with a significant supplemental in military assistance. Aside from more money and more guns, what do you propose to be different in the weeks and months ahead?

Mr. MOTLEY. I am not going to address your assumption as to timing.

Mr. STUDDS. We disagree on the assumptions, but the question remains.

Mr. MOTLEY. I think the record of this administration is very clear. It has laid out what the problems are—and not just military—longstanding economic and social problems inherent in the area. The problems didn't come up yesterday and won't go away tomorrow. An economic recession that the world has seen in the period exacerbates the problem, and you put upon it the adventur-

ism of the insurgents, most of it directed out of Cuba through Nicaragua, what you find in the solutions to it is an attempt to tackle all of those problems and that includes the economic aspect, the necessity to democratize the country, negotiations which Ambassador Stone has been working very hard on.

It was Ambassador Stone as a Presidential envoy who was able to bring the guerrillas together and the Peace Commission in an attempt to arrive at the election.

The fourth element is the military element, and you spoke of four elements, not just military. The policy is working, there is no homerun ball in it, and it has to be addressed on all fronts.

Mr. STUDDS. Will we face a large supplemental request in the military field next week?

Mr. MOTLEY. If you see an increase, you will see it on all fronts that we have talked about, which is economic as well as military.

Mr. BARNES. Mr. Zschau.

Mr. ZSCHAU. Secretary Motley, let's assume that the statistics that you have shown us are correct, and there has been a decline in the number of killings by death squads. To what would you attribute the cause of the decline? Are they running out of victims? Are there fewer people that do the killing or is there some major changes that are taking place? To what would you attribute the decline?

Mr. MOTLEY. It is a variety of things. It is an awareness within El Salvador that has become more public, that the people generally don't like to see this type of violence. It is an awareness that in order to have the other things that they want, an economic system that works, peace, that that is an integral part of it. It is a realization on the part of the Government that they have to take certain acts in order to stop death squads, which includes taking a handful of military people and sending them out of the country. It is a variety of items.

Mr. ZSCHAU. Do you really believe that taking a handful of people and putting them out of the country has had any major effect? Aren't there many, many more people involved in this over a long period of time that have gone free without any kind of penalty?

Mr. MOTLEY. That is one of several. I don't think any one system can say I delivered a reduction in death squad activities or civilian deaths. It is an attempt at all of them.

The attempts at reform, the kinds of efforts that Jim Michel talked about, Judge Tyler's trip, all of these things are trying to attack all of the aspects that do affect it.

Mr. ABRAMS. Tony is right. With respect to the results of the recent moves such as sending some people out of the country. It is working. That is the important thing. I don't know what is going on in people's mind.

I can tell you that death squad activities are way down in the past couple of months.

Mr. ZSCHAU. Secretary Abrams, I was most impressed with your statement in the New York Times as well as in this record, and in it you indicate the dilemma we face.

On the other hand, we want to use our military aid as a lever in order to improve human rights performance and on the other

hand, we want to make sure the military program advances and is successful.

And the question which you raise is the most vexing. How do you accomplish both?

You left it up to us to come up with some ideas, but I was curious in writing this whether you had anything in the back of your mind?

Mr. ABRAMS. I have no specific proposal to make.

It is clear that there needs to be a relationship between the level of American support and events in El Salvador. There has been one for some years now, through legislation and the administration's policy.

Whether one should put that in specific legislative form is a different question, and I don't want to try to answer that in this kind of a forum, but I do think it is important that we avoid any kind of legislation which takes as its basis the notion that 65 is passing on human rights, you get a 64, the hell with you, go Communist.

We need to try to avoid that, an absolute, total cutoff of aid because the result of that can be a worsening of the human rights situation.

As to how we work that out, that is the kind of thing that we and you need to give a lot of thought.

QUESTION OF CREDIBILITY

Mr. ZSCHAU. The basic problem is being credible, when we tell the Salvadoran Government "You got to shape up or we will cut off military aid," they have to believe it, and I am not sure that they do believe it because we also out of the same mouth say how important it is to defeat the guerrillas.

You raise the question. I am not sure how we can be credible, but it is absolutely important that they believe that if there is not improvement, that there really will be some holdback, some punishment, some effect that they will not want to see.

Let me quickly ask one informational question. Has there been any improvement in the justice system, either through the new Constitution or any actions that have been taken that it will make it more likely that the people who do commit these crimes are actually brought to trial, convicted, and sentenced?

POLITICAL REFORM

Mr. MICHEL. The new constitution contains some important provisions regarding the judiciary that we believe will make an improvement.

First of all, the budget of the judiciary, which presently suffers from a gross lack of resources, will no longer be determined by the executive branch before it goes to the legislative branch; so the judiciary will propose its own budget to the Legislative Assembly. That in itself can strengthen and add to the independence of the judiciary.

Second, the inferior court judges from the courts of first instance and second instance will now be appointed by the Supreme Court to 3-year terms which are automatically renewable absent miscon-

duct in office. So there will be great tenure for judges, which again enhances judicial independence.

The Constitution provides for a national commission on the judiciary, which will be a mixed body made up of Government and private sector individuals who would establish criteria and make recommendations for judicial selection in an effort to depoliticize the judicial appointment process.

All of these things are important reforms that are incorporated into the new Constitution.

Beyond that, there are a range of needs that we could spend the little time we have here discussing, and I will not go into that. But let me say that there are legal reform commissions, commissions on the administration of justice within the executive and judicial branch working up ways to make the system work better, and we are working with the Government of El Salvador, and international organizations and other governments in the region on cooperative programs to be of assistance toward that objective. Some steps are being taken, but it is a long-term process. You won't see a whole new judicial system overnight, but we are seeing a real desire for improvement and steps taken to fulfill that desire.

Mr. BARNES. The gentleman from Nevada, Mr. Reid, is recognized for 5 minutes.

Mr. REID. Thank you, Mr. Chairman.

DIALOG WITH FMLN

In reading your report of January 16, on page 34 there is a heading that says, "Internal Dialogue," and you will see in reading through that as I did, that it ends by stating, "Moreover, it demanded," that is, the FMLN, demanded, "that its guerrilla fighters be integrated intact into the Salvadoran Armed Forces while reserving for itself the right to purge and reorganize the Government's military. The leftists' demands were completely considered unacceptable and antithetical to the democratic process."

I was trying to figure out why they would take such a position, so there would be no agreement, or did they ever have any serious hope that that would be accomplished?

Mr. MOTLEY. There may be several answers to that.

One is that historically, following this trend, that type of coalition has not worked throughout, and this is what guided the El Salvador Government.

The second may be a fear that their candidates would not get the protection in an election, that their voters would not get the protection, not get the access to the media, and if that situation was to exist, that would be a valid fear.

The attempt on the part of the Peace Commission was to see what it was that it would take if they participated in an election in order to guarantee the safety of the lefts candidates' access to the media, et cetera. Those meetings ended. We have some hope that there will be future meetings of this type. I don't consider that irrevocable.

Mr. REID. This has been 6 months.

Mr. MOTLEY. I understand. A lot of the credit goes to Ambassador Stone.

Mr. REID. Mr. Secretary, it appears to me that these demands were so unreasonable, for lack of a better word; do you think that the FMLN ever thought that anyone would accept these?

Mr. MOTLEY. I agree with your assessment that they are unreasonable and, therefore, from that point of view, if they lay those out, they really don't want to participate in an election. That is where I come down.

ECONOMIC OUTLOOK

Mr. REID. The report further indicates and your charts also did the same, that the unemployment in El Salvador now is over 30 percent.

Mr. MOTLEY. That is the reported unemployment.

The word on the street in San Salvador, if you lump underemployment and unemployment together, it is in excess of 40 percent. I didn't use it there.

Mr. REID. Congressman Weiss mentioned that also, that he thought that 31 percent was low. You would acknowledge that?

Mr. MOTLEY. Yes, sir, we try to be as conservative as possible in all these figures.

Mr. REID. With the Caribbean Initiative program, and the Jackson Commission maybe on the horizon, but forgetting about those, is any of the economic aid that we are giving and going to give helpful to this situation? It seems to be going up rather than down, unemployment.

Mr. MOTLEY. I think unemployment is a function of a variety of things there, the worldwide economic recession which has added to it.

Mr. REID. We heard last night that that is OK.

Mr. MOTLEY. It is heading in the right direction. It takes a while for it to get down to El Salvador and other countries.

That will make it go back up, but the fundamental thing you have to do is, if you are going to conduct business and people will go to work and have transportation, you got to stop a war. These things will not come back until there is peace.

Mr. REID. The last question, looking at these charts, which they were very descriptive, I have to phrase this properly, the population growth in El Salvador is fantastic.

Mr. MOTLEY. Roughly 2.9 percent increase per year.

Mr. REID. Also, Congressman Weiss indicated to me that when you were down there, it is amazing how many little kids there are. It is obvious the population is growing very quickly.

One of the things we have not talked a lot about is the fact that people do not have enough to eat. Are there people hungry in El Salvador? We seem to gloss over that, really.

Mr. MOTLEY. I think that is a fair assessment. There probably are people hungry in El Salvador.

Mr. REID. I have watched this now a year, and my concern is, it doesn't appear things are much different than last year.

Do you really believe any headway has been made in the past year?

Mr. MOTLEY. Yes; on a variety of fronts, looking at some of those charts with the political developments, you have had an election

schedule, a constituent assembly where nobody owns the majority, and you are facing another election. You have had a decrease in deaths. Wars of the nature of guerrilla war with their ebbs and flows go up and down. Improvement in the professionalization of the military, and basically the end of the economic decline, based upon doing a linear progression, you will find that it looks like the economy has flattened out in 1983. The decline has flattened out in 1983. Most of the economic indicators are in that direction.

Mr. BARNES. Mr. Solomon.

Mr. SOLOMON. Thank you, Mr. Chairman. Since some Member from that side of the aisle saw fit to mention the President's speech last night, I am entitled to do the same. Wasn't that a great speech? When you cut inflation down to practically nothing and cut interest rates in half and get this country really revitalized and you get a foreign policy that enemies and friends alike respect, isn't that great? Aren't we lucky to have a President like that?

Let me ask another question.

We seem to be concerned about giving the Salvadoran Government arms. We have a city in New York State called New York City, and there is Philadelphia, Boston, Washington, D.C. If you took the guns away from the police in these cities, we would have human rights violations like you have never seen in this great land of democracy and justice, and that is why I vote for military aid for El Salvador and economic aid, because we have to replace the bridges and the farms and the crops that need dusting, that the Communist guerrillas are tearing down and my question is this: Back in August 1983 I submitted to this joint committee, these same committees, documented evidence of over 20,000 human rights violations of killings, maimings, kidnappings, hostage takings, terrorist assaults in public places, and I am worried that we are concentrating so much on the human rights violations that are associated, perhaps, with the Government and neglecting the other. When I was there, and I flew out into the mountains and talked to the campesino farmers. Those farmers were concerned about the communist guerrillas or they were not concerned about right-wing death squads. Sure, those things happened, but they were really concerned the Communist guerrillas were going to sweep down and wipe out their children on a given day. I hope that we do concentrate and I do commend you on the job that you have done on letting the Salvadoran Government know that we do mean business about cleaning up their act as far as human rights violations. I don't think it is condoned by that Government, but let's also concentrate on the real human rights violations that are being committed by the thousands, and that are being documented by radio sources such as Radio Havana and the Communist radio broadcasts themselves. That was the information that we documented, and let's concentrate on cleaning up the human rights violations that are being committed by the Government, but also look at those poor helpless people.

Mr. BARNES. Mr. Weiss.

Mr. WEISS. Mr. Secretary, as you know, a couple of other Members and I have just come back from a tour through Central America. You have to be much more humble about the certainties as to

what exactly is happening, and what is likely to happen if certain courses of action are not followed.

I am not sure that any of us have the right to be very certain about what is going to happen. The kind of thing that concerns me, though, and I want to get your reaction, two separate things.

MILITARY STALEMATE

The sense that we got was that from a military point of view and we got this both inside of El Salvador and from talking to governmental or nongovernmental people outside of El Salvador as well, residents, citizens of other countries, is that the military situation is indeed in somewhat of a stalemate at this point, and any sense of it is that except for our own direct military involvement, no matter what we do by way of resources and the Salvadoran Government people are talking about very, very heavy military assistance, because they talk about the ratios that have to be maintained versus guerrilla forces and logistical support they have to have, except for direct American involvement, I don't think that anything except a prolonged bloodletting kind of stalemate is in the offing.

At the same time, it seems to me that because neither side can be assured at this point as to what direction American action will take ultimately, that it might be a good opportunity, maybe the best opportunity we have had for leverage to be applied by our Government on the Salvadoran Government and military, the Cubans and Nicaraguans, on the part of the guerrillas to see if in fact a peaceful resolution can take place.

I don't expect that to happen before the March 25 elections, because that is sort of—the die is cast for that.

Shortly following that, we ought to be making that kind of effort because otherwise what I see in your statistics, that country is going to be destroyed.

The recent actions on the part of the guerrillas in destroying bridges and threatening power installations and so on, it is an indication as to what will be happening on both sides of that compact, so that is one concern I would like your response to.

HUMAN RIGHTS SITUATION

The second has to do with the human rights situation.

I think that Vice President Bush's statement on the 11th of December down there did have a salutary impact to the extent that at the very top levels of the Government, President Magana, the head of the defense forces, and one or two people below them genuinely understand what our position is and what the impact of the death squad activity has been.

Even Arena came out four square against the death squads, D'Aubuisson's party. We spoke to one of the heads of the security police forces who took the position that all of the information about death squads was just propaganda, and my sense of it is that it really has not permeated through the people that count, that society or the military or civilian, governmental, and I don't imagine we will see any changes.

You indicated that since the veto on November 30, and since the Vice President's action, there are some good signs. We have some unclassified State Department cables which indicate that in a period from December 16 to 31, there were 33 political deaths.

And in addition, 15 persons were found dead. Six have gunshot wounds, four knifed, two strangled, one beaten to death, two not specified, and one tortured.

In the previous report, there were 17 political deaths instead of 33 the following 2 weeks, and 31 persons found dead, et cetera, et cetera, so I don't see where you have this improvement in human rights, and I wonder what you base it on, because our conversations with all people indicate there was no confidence on the part of anybody, including the center, that they have any confidence at all that the death squads' activity will slow down or come to an end.

Mr. MOTLEY. I was copying down the figures you gave, and I added up 48. We may be mixing up apples and oranges, but I think we showed even a higher figure, so maybe your reports were better than ours.

There is no doubt that numbers have gone down. Let's talk about the impressions that you got.

Captain Avila doesn't consider it a propaganda ploy that he gets thrown in the slammer.

Mr. WEISS. You know, the military, the general has him in jail on a military infraction. Within 2 weeks, timeframe for holding him will have expired.

Mr. MOTLEY. The time has expired, and he is continuing to be held on another charge. His uncle is a supreme court judge, but it shows the will of the responsible part of the Government to do so.

The four were transferred involuntarily out of the country.

It is a tough set of facts. I think we are finding a growing body of responsible people within the Salvadoran Government. What can we do to help you achieve aims that you want, and we want? It is 3 yards and a cloud of dust, no home run ball.

The nature of guerrilla warfare is an ebb and flow, and you find the levels fluctuate backward and forward. After so many years of fighting, you would find elements of people that become discouraged.

You have to keep in mind that is not the first guerrilla insurgency in Latin America in the last 22 years, and there have been some that went on for a long period of time in which there were armed, active guerrillas, and they don't end overnight, but whether that glass may be half empty or half full may be the way we look at it.

I appreciate your comments.

Mr. BARNES. Mr. Hyde.

Mr. HYDE. I want to agree very sincerely with my friend from New York who just made a profound statement, that humility is something that ought to guide all of us in trying to assess the answers to this very troubling area of the world.

Nobody has the answers, least of all myself. I concede that. I voted for millions of dollars to go to Nicaragua in the hope, the prayerful but disappointed hope that freedom might have a chance down there.

I was wrong, but we do have history, logic, commonsense, and if we can look to those things rather than the ethnology that moves me and people to the left of me we might get some answers, and I heard the statement made, "Military aid will never solve the problems in Central America."

Sure, that is true. That does not address the problem at all. What good is it to send millions of dollars in economic aid down there if it gets blown up and torched and bombed, because there is inadequate protection for it.

My friend uses the word "communism." He is one of the few anachronistic members who recognize they are Communists, but he must learn to use the word "deloused" Marxist-Leninists down there, liberation theologians, but they are the same people; and they are bombing all the infrastructure.

If you don't send the military, don't send anything.

You wouldn't dare say that about any other conflict situation in the world. You wouldn't say that in the Middle East. There is no military aid that will ever solve that problem, so the people who assert that, vis-a-vis Central America, are the quickest votes for increased military aid to Israel, including the most sophisticated weapons.

And I join them in that, because they have a problem, but why are they so myopic about the situation existing in Central America?

Negotiate, that is the magic word. That has almost orgasmic significance, but you don't say that, you don't say that in the Middle East. You don't even recognize your adversaries, you won't talk to them, but negotiate is the "Open Sesame" in Central America.

You can't negotiate in a vacuum. Power relationships determine whether you can negotiate or not. If the military was irrelevant and got in the way, why pull them out of South Korea and negotiate at Panmunjom? Oh, I forget, we have been negotiating for 30 years.

HUMAN RIGHTS IN EL SALVADOR VERSUS OTHER AREAS

We have 30,000 troops to protect what we have there.

Yes, human rights are a goal. Democracy is a goal. Will somebody who has studied abnormal psychology tell me why we demand a standard of conduct in Central America before we will aid them militarily, and we let a whole continent, Africa—and read the January 16 Time magazine, that is not put out by the State Department—about human rights in Africa.

We give them money, I won't say shovel it, but we sure give it to them without qualification. Is there not some strange patronization that says, "Hey, these poor people couldn't meet these qualifications, but you little Salvadoran Government, you meet them or we are cutting you off."

Why the double standard? Why the unevenhandedness? I don't understand it, and maybe one of the scholars and the most insightful gentleman on the left, and I don't usually use that, but we here on the right so much so, we may as well have the seesaw balance, on the left explain why we want to give Mozambique \$10 million, \$40 million to Zimbabwe, but never certify on human rights.

Don't people bleed in Africa as well as in Central America? Marxism is doing fine down there, so don't stop the tidal wave, but it hasn't quite taken hold in Central America, so let's demand human rights down there.

I am for human rights, but when Marxism-Leninism or communism takes over in El Salvador, then goodbye Honduras, goodbye Guatemala, and human rights will become as old fashioned a term as communism.

Now, those are my views, and I thank the chairman.

Mr. BARNES. The gentleman from Connecticut.

Mr. GEJDENSON. As tempting as it is to reply to my friend from New York and to help point out to him the differences between conflicts between countries and civil wars and the kinds of problems we face in Central America, I will try to stick to asking as few questions, and first, as many of us did through the last year, I would like an opportunity to go through Central America and one of the problems that at least some of our military people indicated to me on the ground were supply problems to Salvadoran military, that in a country that at that point we were bringing in somewhere around \$80 million in military aid and it developed tactical maneuvers for their army that required radio contact, we had run out of batteries and they were wiring together dry cell batteries.

Are we getting a better handle on what is happening to our military aid? Is the black market turning over, what portion of it to the rebels?

Mr. MOTLEY. Well, I think that I can recall a period of time in which there was a battery problem. Another problem was the command structure where we have seen quite a few changes lately. They have put people in command there that have the combat experience.

There is another element to the problem. When you face a supplemental, continuing resolution, with its short string and long-term uncertainty regarding assistance levels, there is an element of hoarding that goes on and that creates an element of problem with regards to conduct of the war.

Mr. GEJDENSON. Have we established that—one of the clear feelings, talking to military people down there, at least a portion of it was heading to the rebels, and there was an amount that was going not simply when Salvadoran bases were being overrun, being diverted toward the rebels?

Mr. MOTLEY. I am unaware of that.

Mr. GEJDENSON. How do you get your polling information in El Salvador and on the breakdown of who is doing the killing and the death squads?

WHO IS DOING THE KILLING

Interestingly, each side, Larry Speakes recently had it broken down to 30 percent to the left or 30, or 40 percent to the right and only 20 percent to the army.

How do we assess who is doing the killing?

Mr. MOTLEY. No. 1, fundamentally, I will tell you where we are coming from. We are against all the killings. I spend no time commissioning or analyzing reports that may show whether it comes

from the right or the left. I accept the fact that they come from both, but you keep your eye on the ball and that is to reduce the numbers and not try to ascertain blame to the right or to the left.

Mr. GEJDENSON. How do we know whether they are dealing with the army out of control or separate institutions? How do we focus on that, because if you don't know where it is coming from, how do you reduce it, if you are not sure whether it is paramilitary or the regular army? It makes it more difficult to reduce the deaths.

Mr. MOTLEY. We have congressional prohibition from doing a lot with nonmilitary police. Having said that, the main thing is one knows what is necessary in order to maintain security, to establish a system, to try to work in a system of justice of investigations, some of the other things, across the board, and you try to go after it structurally in order to create that climate in which it can occur, but if it does occur, there is a system of justice that leads to justice.

Mr. GEJDENSON. Do you feel comfortable that it is no longer a major part of the army structure?

Mr. MOTLEY. I am not really sure that it ever was part of the army structure. I am comfortable in the sense that they are making efforts on all fronts and we are trying to help them on all fronts, to try to help them lower them.

Mr. ABRAMS. Some of the violence is from the right, and some from the left, and some is plain criminality, people hiding behind this curtain of overall violence to work out personal grudges.

To the extent that it is the Government of El Salvador personnel acting unofficially, then we try through various means of pressure, and we have seen in the last few weeks with the death squads, the Government can have an effect when it clamps down.

To the extent that it is the guerrillas, the Kissinger Commission pointed out the real growth came after 1979, the final offensive of January 1981 when deaths went to 800 a month. Cutting back on the ability of the Sandinista—the huge increase in violence in El Salvador started with the victory of the Sandinistas, and the January 1981 so-called final offensive brought the total number of deaths to 800 a month by our statistics.

So there is a clear relationship with the supplies coming in from Nicaragua.

Mr. GEJDENSON. You lose me.

Mr. ABRAMS. Once the Sandinistas won, they had the ability to step up considerably their supplies to the FMLN, and that led to the violence in El Salvador because the FMLN increased the amount of killing that they were doing.

Mr. GEJDENSON. You made some assumptions that I am not sure everybody shares, and it may be accurate to assume that as the turmoil and the violence increases militarily that the death squads increase their activity, but it seems, are you saying that most of the deaths came as a result of Nicaraguan-supplied weapons, guerrillas killing civilians?

Mr. ABRAMS. Rightwing death squad activity, and leftwing killing, and that killing increased after the Sandinistas took over in Nicaragua and began to increase the amount of supplies to the left in El Salvador.

This conclusion was reached by the Kissinger Commission.

Mr. BARNES. The gentleman from Michigan is recognized.

Mr. SILJANDER. One quick and brief question, rather than a speech or a statement.

MILITARY PREPAREDNESS OF SALVADORAN ARMY

I met with the President of the European Parliament, Peter Dan-kirk, in Strasbourg, France regarding Central America. His impression regarding the military preparedness regarding the Salvadoran troops was a very poor one, and his impression was just this, and I would like your response, that less than 15 percent of all the American-trained Salvadoran troops are still in the service of the army, the rest, the army left the country or deserted or joined the guer-rilla force.

He claims he visited warehouses full of brand new American military equipment and arms in unopened boxes stashed that were sold by government troops to the guerrillas for money. Now obviously this type of status is earthshaking by someone of that position in the world, especially in the European Community, making these types of statements.

What can you tell me of the legitimacy of those statements?

Mr. MOTLEY. Maybe the gentleman's figures are outdated. The retention rate for the overall armed forces was less than 10 percent prior to 1982. By the end of 1983 retention improved to 33 percent with 90 percent reenlistments of the eligible NCO's.

With regard to arms, statistically, in the hands of the guerrillas, you would find checked by serial numbers, U.S. weapons, they originated from the captured stash in Vietnam and came in.

Mr. WEISS. You say 90 percent of the eligible NCO's. My understanding is that part of the problem with the Salvadoran Government is they did not have a noncommissioned officer structure. They are just in the process of building it. Ninety percent of what?

Mr. MOTLEY. I will be happy to provide the figures for you. There have been assertions made along these lines before.

[The information follows:]

The Salvadoran Armed Forces initiated a program in 1982 to develop its NCO corps. In 1982 there were approximately 4200 NCO's. This figure includes corporals, sergeants, and cadet lieutenants who function in NCO capacity until they receive their commissions. 2221 NCO's re-enlisted during 1983, over 90 percent of those eligible.

Mr. WEISS. Ninety percent of 12 or of 50?

Mr. MOTLEY. I would be safe to assume that it would be more than 12. I will get the figures for you.

Mr. BARNES. I apologize to the gentleman from Michigan.

Let me ask the witness if you would be prepared to respond, perhaps in writing, to additional questions that we might not have gotten to.

[Whereupon, at 3:20 p.m., the subcommittee was adjourned subject to the call of the Chair.]



THE SITUATION IN EL SALVADOR

MONDAY, FEBRUARY 6, 1984

HOUSE OF REPRESENTATIVES, COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEES ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS AND ON WESTERN HEMISPHERE AFFAIRS,

Washington, D.C.

The subcommittees met at 10:15 a.m., in room 2172, Rayburn House Office Building, Hon. Michael D. Barnes (chairman of the Subcommittee on Western Hemisphere Affairs) presiding.

Mr. BARNES. Ladies and gentlemen, the subcommittees will come to order. The subcommittees meet this morning for the second of two hearings on the current situation in El Salvador. Two weeks ago, administration witnesses testified on the basis of the State Department's report of January 16. The thrust of that testimony was that things in El Salvador are getting better quickly.

We are extremely fortunate to have with us today some of our Nation's best experts on the situation in El Salvador. Before I introduce the witnesses, does any other member wish to make an opening statement? Mr. Solomon.

Mr. SOLOMON. Mr. Chairman, I had a request in that because after reading some of the testimony and some of what would seem to be quite serious charges that are made, that the witnesses be sworn.

Mr. BARNES. The witnesses have agreed that that procedure will be used this morning.

Mr. SOLOMON. So we are going to do that, then?

Mr. BARNES. We are going to.

Mr. SOLOMON. Fine.

Mr. BARNES. Any other statements from our colleagues?

If not, we have today a panel of witnesses which includes some who are well known to the Foreign Affairs Committee, and others who have not appeared before. Our witnesses are Ambassador Robert E. White, former Ambassador to El Salvador; Lt. Col. Edward King, U.S. Army (retired); Mr. Norman Mintle, a Latin American specialist for the Christian Broadcasting Network; Mr. Aryeh Neier, executive director, Americas Watch; Mr. Martin Diskin, professor of the Massachusetts Institute of Technology and an expert on land reform; and Mr. Michael Posner, Lawyers Committee for International Human Rights.

Gentlemen, your written statements will be entered into the record in their entirety, and you are welcome to summarize those statements.

At this time I would ask you to raise your right hands and take the oath that you solemnly swear to tell the whole truth, nothing but the truth, as you know it.

[Chorus of "I do."]

Mr. BARNES. Ambassador White, if you would begin, we will just go down the panel and then we will have questions from the committee for all of our witnesses. Welcome.

STATEMENT OF HON. ROBERT E. WHITE, FORMER U.S. AMBASSADOR TO EL SALVADOR

THE EMERGENCE OF ARENA

Mr. WHITE. Thank you, Mr. Chairman. For 50 years El Salvador was ruled by a corrupt and brutal alliance of the rich and the military. The young officers revolt of 1979 attempted to break that alliance. It was the Reagan renewed tolerance and acceptance of the extreme right which led to the emergence of the National Republican Alliance, ARENA, and the rise of ex-Major Roberto D'Aubuisson.

ARENA is a violent Fascist party modeled after the Nazis and certain revolutionary Communist groups. ARENA has not only a civilian party structure, but also a military arm obedient to the party. The founders and chief supporters of ARENA are rich Salvadoran exiles headquartered in Miami and civilian activists in El Salvador. ARENA's military arm comprises officers and men of the Salvadoran Army and security forces.

I have here a series of brilliant reports by Craig Pyes of the Albuquerque Journal and Laurie Bechland of the Los Angeles Times, which I recommend to the committee.

SALVADORAN EXILES IN MIAMI

My Embassy devoted considerable resources to identifying the sources of rightwing violence and their contacts in Miami, Fla. Information on the Salvadoran exiles residing in Miami proved particularly difficult to develop.

However, in January 1981, we located a source who was regarded by the Miami group as one of them. The source said he had talked to wealthy people in San Salvador who have been interrogated and threatened in Miami.

These men have been called to Miami and seated at the end of a long table, facing the "Six," and made to answer such questions as "Why are you contributing to the Communist victory by keeping your business open?" or "Why do you do the work of the Communist agents White and Bowdler?" The reference is to former Assistant Secretary William Bowdler.

According to the source, the Miami Six explained to him that to rebuild the country, it must first be destroyed totally, the economy must be wrecked, unemployment must be massive, the junta must be ousted and a "good" military officer brought to power who will carry out a total cleansing—limpieza—killing 3 or 4 or 500,000 people.

Last, the "Six" made the following threat: "Unless you close down your factory/business, get out of the country, stop working

for Alianza Productiva, INCAFE, American Embassy, et cetera, you will be sorry."

MIAMI SIX

Who are these madmen and how do they operate? According to the source, the principal figures are six enormously wealthy former landowners. He continued that central power was exercised by the Miami Six, nothing that others among the emigres and their wealthy allies here have some role from time to time but the top leadership is Enrique Viera Altimirano, Luis Escalante, Arturo Muysshondt, the Salaverria Brothers—probably Julio and Juan Ricardo—and Roberto Edgardo Daglio. All are in Miami. They hatch plots, hold constant meetings and communicate instructions to D'Aubuisson.

BACKGROUND ON D'AUBUISSON

Let us review a few of the items from the record of Roberto D'Aubuisson and his organization, formerly called the Broad National Front, now ARENA.

October 1979: D'Aubuisson is expelled from the Salvadoran military for human rights abuses. Christian Democrat leader Napoleon Duarte later charges that he has turned his office into a "torture chamber and death house."

March 1980: D'Aubuisson plans and orders the assassination of Archbishop Oscar Romero. I will return to this.

May 14: A gang of D'Aubuisson supporters assault the U.S. Embassy residence. Mario Raedello, a D'Aubuisson aide and now a leader of ARENA, using a loudspeaker calls on U.S. Marines guarding our Embassy to desert. During the attack, Raedelli drove a car registered to D'Aubuisson against the gates of the Embassy in order to blockade me inside. His stated intention was to hold me hostage until D'Aubuisson was released from prison.

I had Raedello barred from the United States for attacking the U.S. Embassy. The Reagan administration has since found him eligible to enter our country.

November 27, 1980: Six members of the executive committee of the Revolutionary Democratic Front are kidnaped and assassinated. Their bodies show signs of torture, dismemberment, and strangulation. The Maximiliano Hernandez Martinez Anti-Communist Brigade publicly takes credit for the murders.

In a May 12, 1981, letter to Representative Lee Hamilton of this committee, Richard Fairbanks, then Assistant Secretary of State for Congressional Relations for the Reagan administration, stated that "Ex-Major Robert D'Aubuisson reportedly leads a rightwing terrorist group called the Maximilio Hernandez Brigade."

March 11, 1981: Four men fire on the Chancery of the U.S. Embassy from a truck. Ambassador Frederick Chapin later identifies Roberto D'Aubuisson as the author of the attack. "This incident has all the earmarks of a D'Aubuisson operation," he said.

EVIDENCE LINKING D'AUBUISSON TO ARCHBISHOP ROMERO'S MURDER

Subsequent to the murder of Archbishop Romero, several events occurred which link D'Aubuisson and his organization to the death of Archbishop Romero.

On or about May 1, D'Aubuisson circulates a videotape in which he calls for the overthrow of the U.S.-backed Government. In the videotape, D'Aubuisson implicitly takes credit for the murder of Archbishop Romero. In his presentation, D'Aubuisson refers with contempt to the revered Archbishop as "The Ayatollah who has left us." My Embassy submitted a copy of this videotape to the Department of State.

On May 7, a group of young officers arrest D'Aubuisson for coup plotting and discover documents which lead competent observers to conclude that D'Aubuisson and his group carried out the execution of Archbishop Romero.

The civilian judge in charge of trying Roberto D'Aubuisson is driven from El Salvador by threats from death squads. As soon as he arrives in Costa Rica, he states publicly that the evidence points to D'Aubuisson as the author of the murder of the archbishop.

MURDER OF AIFLD WORKERS

January 4, 1981: Two Salvadoran enlisted men kill Rodolfo Viera, head of the Agrarian Reform Institute, Michael Hammer and Mark Pearlman, both of the American Institute for Free Labor Development, AIFLD. These men have testified that two members of D'Aubuisson's organization, Lt. Rodolfo Lopez Sibrian and Capt. Eduardo Ernesto Alfonso Avila ordered them to kill Viera and the two Americans.

Any doubt about the guilt of these two Salvadoran military officers may be resolved by reading the AIFLD investigation report.

The Salvadoran military has rebuffed the Reagan administration's requests to try Lopez Sibrian and Avila. Lopez Sibrian is on active duty. Avila is under detention for leaving his post without permission. I can state with moral certainty that as soon as the Congress acts on the aid package for El Salvador, Avila will be released.

In conformity with the evidence, the administration of President Carter classified Roberto D'Aubuisson as a terrorist, a murderer, and a leader of death squads. As ambassador, I denied him access to the U.S. Embassy and succeeded in having him barred from our country.

Shortly after President Reagan took office, this administration overturned this policy and began the process of rehabilitating ex-Major D'Aubuisson. No longer was he a pariah. Today he is one of the leading Presidential candidates in the election scheduled for March 25. In a very real sense, the Reagan administration created Roberto D'Aubuisson, the political leader.

Yet from the first days in office, the Reagan White House knew, beyond any reasonable doubt, that Roberto D'Aubuisson, in addition to other crimes, planned, and ordered the assassination of Archbishop Oscar Arnulfo Romero.

According to an eyewitness account, Roberto D'Aubuisson summoned a group of about 12 men to a safe house, presided over a

meeting, announced the decision to assassinate the Archbishop and supervised the drawing of lots for the honor of carrying out the plot.

That officer who won the lottery was Lt. Francisco Amaya Rosa, a D'Aubuisson intimate. Amaya Rosa chose a military hanger-on and sharpshooter named Walter Antonio Alvarez to fire the single bullet which ended the life of Archbishop Romero as he said mass in the Orphanage of the Good Shepherd.

Another cable contains the information that some months later, as ARENA's political campaign was getting under way, D'Aubuisson decided that Alvarez could not be trusted. He pronounced another death sentence. A four-man death squad went into action and executed Walter Alvarez as he stood watching a soccer game.

All of the above information was reported to Washington.

The Reagan White House took on a great responsibility when it chose to conceal the identity of the Archbishop Romero's murderer and not to use the evidence gathered by the Embassy to write finish to the political fortunes of ARENA and the ambitions of Roberto D'Aubuisson.

Did the Kissinger Commission have access to Embassy reports detailing the systematic murder of Salvadoran moderates by ARENA and the intimate collaboration which exists between high military commanders and death squads?

President Reagan has advocated free elections as the solution to the problems of El Salvador. Yet in El Salvador the press is controlled by ARENA. We can all be certain that the government and ARENA will do its best not to permit any news of D'Aubuisson's guilt to reach the people of El Salvador. How can people cast a free vote if vital information is denied them?

I have one last point, Mr. Chairman.

I have charged that there exists a coverup of vital information. The validity of this charge is not affected by passing a few telegrams before several legislators and insisting that the information is too sensitive for the public. In the elegant parlance of Watergate, this is known as a limited hangout.

The obligation of any administration is to draw obvious conclusions from information in the best interests of the United States. Concerned citizens of the United States and other countries will eagerly await the Reagan White House explanation of how the objectives of democracy and human rights are served by:

Refusal of the Reagan administration to act on evidence linking the Miami exiles to ARENA and the death squads; rehabilitation of Roberto D'Aubuisson, the ultra-rightist, death squad leader; certification of progress on human rights. By affirming as true what is known to be false, the White House has undermined its own reputation; suppression of the report by Judge Harold Tyler on the investigation into the circumstances surrounding the death squads of the American churchwoman.

I earnestly hope, Mr. Chairman, that the Reagan administration will change their policy, and begin to work for a negotiated peace, and make a real beginning to rooting out the terror which is institutionalized into the Salvadoran Government.

Thank you.

[Mr. White's prepared statement follows:]

PREPARED STATEMENT OF HON. ROBERT E. WHITE, FORMER U.S.
AMBASSADOR TO EL SALVADOR

My name is Robert E. White. I am Warburg Professor of International Relations at Simmons College. I chair the Center for Development Policy's Commission on United States-Central American Relations, a private group working for better relations between our country and the countries of Central America. During my Foreign Service career I had assignments in Honduras, Nicaragua, and El Salvador.

The President and Congress have committed this nation to ending our support for El Salvador's brutal apparatus of terror. Yet the President is now preparing new military aid requests which--if granted--will only encourage further civilian murder.

Despite my grave reservations about the overall direction of the Kissinger Commission report, its human rights recommendations mark a major contribution to the human rights debate.

As you know, nine of the twelve Commission members recommended in part that military aid should be conditioned upon "termination of the activities of the so-called death squads, as well as vigorous action against those guilty of crimes and the prosecution to the extent possible of past offenders. These conditions should be seriously enforced."

The Commission members also recommended "serious sanctions, including the denial of visas, deportation, and the investigation of financial dealings," against US-based Salvadorans connected with death squad activities.

Congressional passage of this recommendation is urgently needed, with the added proviso that Congress--not the President--should make this determination prior to allocating funds.

Only strong action can give hope that civilian murder in El Salvador will be reduced. To understand this, one must understand the inner-workings of violence in El Salvador.

The political and moral bankruptcy of the Reagan Administration's policy in Central America comes clearer with each passing month. In El Salvador, the ragtag forces of revolution deal blow after staggering blow to an American trained and supplied military force. In Nicaragua, the CIA-sponsored counterrevolutionaries bear dramatic witness to their own impotence. After two years of subsidies, the Contras have yet to take and hold a single village and each night must flee over the border to safe haven in Honduras. Given the miserable record of the forces we support, is it not

past time to stop throwing guns and money at the problem and ask why?

Any formulation of a national policy toward Central America must begin with the recognition that conditions in most of Central America justify recourse to revolution. This is especially true of El Salvador. Even the excesses of the despotic, venal Somoza clan in Nicaragua pale in comparison with the brutal, starvation existence imposed on the Salvadoran campesinos and workers by the economic and military elites.

For most of this century the rich of El Salvador--families such as the Quindóñez, the de Solas, the Regelados--have dominated an economy which has systematically reduced the poor to a subhuman existence. In 1979, young officers leagued with democratic revolutionaries and launched a program dedicated to human rights and reform. Their efforts were regularly subverted by Colonel Nicholas Carranza and other high ranking members of the Salvadoran military. When leaders for human dignity and change--men such as Archbishop Oscar Romero and Land Reform Chief Roldolfo Viera--continued their efforts on behalf of the poor, military death squads gunned them down.

The fundamental error of the Reagan foreign policy team has been to hide the fact that death squads and butchery are intrinsic to the regime their policies have helped create. As in Vietnam, this head-in-the-sand approach confuses our own citizens, angers our allies, and does a profound disservice to the peoples we purport to help.

Over the past three years the Reagan Administration has suppressed facts which would have revealed the character of the disloyal and murderous system which our military and economic assistance supports.

The Reagan Administration may believe that a first-hand, dispassionate account of the connection between Miami-based Salvadoran exiles and death squads are not of interest to the Congress. I believe Congress should make up its own mind about that.

The Reagan Administration may believe that an eye witness account of ex-Major Roberto D'Aubuisson ordering the assassination of Archbishop Oscar Romero is not germane to the deliberations of Congress. I believe the Congress should decide that after hearing the facts.

I have referred to these events before. The response of the Reagan Administration has been to ignore the charges against D'Aubuisson and to dismiss the evidence against the Miami exiles as vague and insubstantial. The Reagan White House is entitled to pursue its own policies. It

is not entitled to its own set of facts.

For fifty years, El Salvador was ruled by a corrupt and brutal alliance of the rich and the military. The young officers revolt of 1979 attempted to break that alliance. The Carter Administration gave all-out support to the drive for profound change. It rejected the solutions of the extreme right. When the Reagan Administration took office, it reidentified the United States with the military and economic elites--with disastrous results. It was the Reagan toleration and acceptance of the extreme right which led to the emergence of the National Republican Alliance, ARENA, and the rise of ex-Major Roberto D'Aubuisson.

ARENA

ARENA is a fascist party modeled after the NAZIS and certain revolutionary communist groups. ARENA has a politico-military organization which embraces not only a civilian party structure but also a military arm obedient to the party. The founders and chief supporters of ARENA are rich Salvadoran exiles headquartered in Miami and civilian activists in El Salvador. ARENA's military arm comprises officers and men of the Salvadoran army and Security Forces. Many of its most effective militants in the military are not formal party members.

In the Carter Administration, men such as Vice President Walter Mondale and the two top State Department officers, Cyrus Vance and Warren Christopher, understood that to be effective against the armed, violent, extremist left, the United States had to reject the fascist, murderous right. As a result, my embassy devoted considerable resources to identifying the sources of right wing violence which sought to destroy the working relationship between the Christian Democrats led by Jose Napoleon Duarte and the progressive officers led by Colonel Adolfo Majano.

The Miami Connection

Information on the Salvadoran exiles residing in Miami proved particularly difficult to develop. However, over the course of the year 1980, the embassy filed several important but fragmentary reports on the exiles' activities.

It was not until early January 1981 that we located a source who was regarded by the Miami group as one of them. They spoke to this person freely and he participated in some of their strategy sessions.

In its first report at the end of December 1980, the embassy reported the angry reaction of the source to articles in the Diario de Hoy, a right wing newspaper owned by Miami

exile Enrique Viera Altamirano. Editorials and articles placed in the newspaper by Viera Altamirano forecast purges in the Department of State, a retreat from human rights considerations in United States policy and an end to social reforms in Central America.

When he referred to the Miami millionaires, the source said, these men are "scum" (escoria). For years, he continued, they have bribed politicians and military officers, and now they finance death squads and bribe the military to terrorize the campesinos. They are the force behind the psychopathic Major D'Aubuisson. Their return will put the country into civil war. Their presence will cause many people to believe the clock will be turned back. When the Alvarizes and the Altamiranos return, he indicated he would leave on the next plane.

In a subsequent report, the source said that many moderate businessmen had resisted pressures from the ultra-right, but they were now leaving as they were certain that the Miami group would kill anyone who stood in the way of their plan. He said that the recent wave of kidnappings of businessmen, the bombings of US/Salvadoran firms, the telephoned death threats and the Sheraton murders were all the work of the Miami gang. He said he had talked to wealthy people here who have been interrogated and threatened in Miami -- such younger businessmen/lawyers as (names deleted) and others -- people who have decided to stay on and work for the country, to keep their businesses and factories open, to cooperate with the government while criticizing its inefficiency and hostility to the private sector. These men have been called to Miami and seated at the end of a long table, facing the "six", and made to answer such questions as "why are you contributing to the communist victory by keeping your business open?" or "why do you do the work of the communist agents White and Bowdler?" (The reference is to former Assistant-Secretary William Bowdler.) Then it is carefully explained to them that to rebuild the country on a new foundation it must first be destroyed totally, the economy must be wrecked, unemployment must be massive, the Junta must be ousted and a "good" military officer brought to power who will carry out a total cleansing (limpieza), killing three or four or five hundred thousand people, whatever it takes to get rid of all the communists and their allies. Then and only then can the wealthy elite return to preside over the reconstruction of the country on a new foundation where the rights of property will be secured forever. Last, the "six" made the following threat: "Unless you close down your factory/business, get out of the country, stop working for Alianza Productiva, INCAFE, American Embassy, etc., you will be sorry."

Now some fifteen businessmen and industrialists have been kidnapped, held since before Christmas with no request for ransom and the message is clear -- get out or the Miami gang will have you kidnapped or killed. The deaths of the AIFLD officials and Viera must be seen in this context, he insisted, and the madness of the Miami gang recognized.

Who are these madmen and how do they operate? The principal figures are six enormously wealthy former land-owners who lost great estates in Phase I of the agrarian reform but still have important holdings parcelled out to nephews, cousins, grandsons, etc., that would be taken under Phase II of the land reform; they also have liquid assets and foreign investments which, combined, might be in the range of two to five hundred million dollars. They have always exercised decisive power in this country and cannot believe that their day is over. Their tactics here were simple: co-opt bright people from the middle class, bribe the top military leadership, kill anyone who made trouble. They have continued to pursue these tactics in Miami but on a far greater scale; for instance they have bribed many military officers and politicians here and abroad to serve their interests. But of even more concern is the fact that they organize, fund and direct death squads through their agent, Major Roberto D'Aubuisson. He never meets directly with them anymore because he can no longer travel to the U.S., but he operates out of Guatemala and has been in El Salvador now for several weeks pursuing the strategy of the "six" to destabilize the country and overthrow the Junta, and using their tactics, bombing factories and offices, kidnapping businessmen and now, very likely, murdering the intellectual leadership of land reform. The object is to terrorize those who are still working for a moderate outcome, in or out of the government, and to impose a rightist dictatorship. Three previous attempts to carry out a rightist coup have been foiled by the American Embassy, the PDC and the majority of the officer corps. The failure of their last effort was a bitter defeat for the "six" and they are in an angry, vindictive mood. Thus it is very dangerous now for anyone they regard as a "communist collaborator", a very broad category in their books which necessarily includes AIFLD.

He said that central power was exercised by the Miami "six", noting that others among the emigres and their wealthy allies here have some role from time to time but these are the top leadership: Viera Altamirano, Luis Escalante, Arturo Muyschondt, the Salaverria brothers (probably Julio and Juan Ricardo), and Roberto Edgardo Daglio. All are in Miami, hatch plots, hold constant meetings and communicate instructions to D'Aubuisson.

The embassy commented that for the last ten months, many Salvadorans and some official Americans have been aware that rightist death squads are financed and directed by a group of self-exiled millionaires in Miami, that the publisher of the DIARIO DE HOY, Viera Altamirano is a principal figure, and that many people have been bribed to cooperate in their efforts to overthrow the government, reimpose the status quo ante and kill hundreds of thousands of Salvadorans suspected of liberal or leftist sympathies. Now we have reason to believe that two officials of the American Institute for Free Labor Development were targetted and murdered by rightist death squads who may be acting under the direction of the "Miami six". This may mean that anyone accused by them of being "social reformers", whether Salvadoran or American, is a target for murder. It is unacceptable that such an operation is guided from a major American city and that nothing can be done to stop it before another American official or contract employee is murdered here. We are unaware of any steps to investigate the information on this operation that has been provided by the Embassy in the past. We believe that steps must be taken immediately to get to the bottom of these charges and that, if proven, the guilty should be prosecuted to the limit of U.S. law.

Roberto D'Aubuisson

The administration of President Carter classified ex-Major Roberto D'Aubuisson, accurately, as a terrorist, a murderer, and a leader of death squads. As ambassador, I denied him access to the United States embassy and succeeded in having him barred from our country.

Shortly after President Reagan took office, this administration overturned this policy and began the process of rehabilitating ex-Major D'Aubuisson. The Reagan administration granted D'Aubuisson a visa to enter the United States, made him an honored guest at our embassy and saw to it that he met regularly with high ranking administration officials and visiting Senators and Congressmen. The legislators were, of course, unaware of the strength of evidence against D'Aubuisson.

Primarily as a result of the Reagan administration's acceptance of D'Aubuisson, his reputation and effectiveness increased. No longer was he a pariah but a legitimate political leader, well and favorably known to the United States embassy. The fortunes of ARENA soared. D'Aubuisson emerged from the March 1982 elections President of the new Constituent Assembly and his country's strong man. Today he is one of two leading presidential candidates in the elections scheduled for March 25. In a very real sense, the Reagan administration created Roberto D'Aubuisson the political leader.

Yet from the first days in office the Reagan White House knew -- beyond any reasonable doubt -- that Roberto D'Aubuisson planned and ordered the assassination of Archbishop Oscar Arnulfo Romero. In mid-November of 1980, a particularly brave and resourceful American diplomat made contact with a Salvadoran military officer who had participated in the plot to kill Archbishop Romero. This officer was present at the March 22nd meeting which resulted in the death of Archbishop Romero on March 24.

According to this eyewitness account, Roberto D'Aubuisson summoned a group of about twelve men to a safe house, presided over the meeting, announced the decision to assassinate the Archbishop and supervised the drawing of lots for the "honor" of carrying out the plot. The Salvadoran officer informant was disappointed that the luck of the draw had not favored him. He gave bullets from his gun to the officer selected in order that he might participate vicariously in the murder of the Archbishop.

The officer who "won" the lottery was Lt. Francisco Amaya Rosa, a D'Aubuisson intimate. Amaya Rosa chose a military hanger-on and sharpshooter named Walter Antonio Alvarez to fire the single bullet which ended the life of Archbishop Romero as he said Mass in the orphanage of the Good Shephard.

Some months later, as ARENA's political campaign was getting underway, D'Aubuisson decided that Alvarez could not be trusted. He pronounced another death sentence. A four-man death squad went into action and executed Walter Alvarez as he stood watching a soccer game.

The reliability of this military officer as a trustworthy source has been established over the months and years. All of the above information was reported to Washington.

Policy Discussion

The Reagan administration made a major decision, for which it must answer, when it chose not to use embassy reports and other materials to move against the Salvadoran exiles who target victims and fund death squads. The Reagan White House took on a great responsibility when it chose to conceal the identity of Archbishop Romero's murderer and not to use the evidence gathered by the embassy to write finish to the political fortunes of ARENA and the ambitions of Roberto D'Aubuisson.

Certain legitimate questions arise:

- The Reagan White House set up a bipartisan commission to build public support for the administration's policies. Did the Kissinger Commission have access to embassy reports detailing the systematic murder of Salvadoran moderates by ARENA and the intimate collaboration which exists between high military commanders and death squads? If they did not have such access, then the Reagan administration has used the members of the Commission in a shameless fashion and the report can be consigned to the wastebasket. If however the report was written with the full knowledge of where the responsibility lies for the mass murder which afflicts El Salvador, then Dr. Henry Kissinger and the Commission members owe the public an explanation why officially-sponsored terrorism in El Salvador received such superficial and inadequate treatment in their report.
- President Reagan has advocated free elections as the solution to the problems of El Salvador. Presidential elections are scheduled for March 25. Yet in El Salvador the press is controlled by ARENA. We can all be certain that the government will permit no mention of D'Aubuisson's guilt to reach the people of El Salvador. How can the workers and campesinos make an informed choice for president when the Reagan administration has suppressed the despicable record of one of the leading candidates? How can people cast a free vote if vital information is denied them?
- The Reagan administration gives lip service to the strengthening of the judicial system of El Salvador as

one road to a more civilized society. Those who exercise power in El Salvador, the revolutionary leaders as well as the military and economic elites, know that the Reagan administration knows that ARENA is responsible for the deaths not only of the Archbishop but also of many Americans including labor advisors Michael Hammer and Mark Pearlman. Does not this tolerance for ARENA give the lie to our stated goal of improvement of the judiciary, and convict us of cynicism and a double standard before the world?

The Reagan administration requests military assistance for El Salvador to advance democracy, increase respect for human rights and move the country towards a political settlement of the conflict. The facts dictate precisely the opposite conclusion. The continuation of military assistance will only signal support for ARENA and the disloyal and murderous economic and military elites which continue to impose a system which depends on organized terror for its existence.

The Road to Peace - Negotiations

The National Democratic Front (FDR) has offered time and again to negotiate terms for reentering the political life of El Salvador. The revolutionary movement has imposed no preconditions precedent to the start of negotiations. They do have an agenda of terms they wish to discuss.

The government of El Salvador has consistently refused to negotiate. While the government has occasionally stated that the revolutionaries might participate in elections, their actions and words contradict these sentiments.

- On October 9, 1983, President Alvaro Magana told the Miami Herald, "when the left suggests San Salvador as a meeting place, [to discuss negotiations] the problem is that they are committing crimes against the country. If they came here, I would have to order them arrested. That is my obligation."
- According to the New York Times of June 19, President Magana stated that, his government would not comply with United States Congressional stipulations that his government begin unconditional discussions with the insurgents. He said, "We are not going to satisfy that condition... If necessary, we are going to lose military and economic aid..."

In my judgment, as long as we continue military aid to the present military leadership of El Salvador, they will never permit negotiations.

It does not matter who is president. As long as the Salvadoran military is controlled by men who collaborate with ARENA in its campaign of wholesale torture and murder, no negotiations are possible.

The Reagan administration has also opposed negotiation. Administration spokesmen hide behind facile phrases such as "let the guerrillas compete at the ballot box" and "we reject power sharing". There are, of course, several roads to peace and justice which would not involve "power sharing" but these would involve far-reaching reform of the military and elimination from the ranks of the military officers who work with ARENA. Any hopes for that were dashed when President Reagan in a recent report to the Congress affirmed progress on democracy, human rights and a political solution in El Salvador. This document makes a mockery of the praiseworthy, tough and straightforward message of Vice President George Bush on his recent visit to San Salvador. It cuts the ground out from under Ambassador Thomas Pickering's valiant attempts to bring the extreme right under control.

The only way to defeat the extreme left is to reject the extreme right. What we face in Central America is primarily a political challenge, and only marginally a military threat. The task is not, as the Kissinger Commission imagines, to defeat the revolutionaries on the battlefield. The challenge is to prevent the Soviet Union and Cuba from capturing the forces of change. The day the young leaders of Central America see Communist countries as their only arsenal for political and logistical support for throwing off bloody dictatorship is the day our security will truly be in jeopardy.

The United States must change its policy and begin to work for peace in Central America. El Salvador is the key. Let us join with democratic partners in Latin America and apply the Costa Rican model to El Salvador. Working through the Contadora countries, negotiators would seek an agreement in which the Salvadoran military and the revolutionaries would ratify a ceasefire and the presence of an Inter-American peacekeeping force. Both the military and the revolutionaries would then disband, and after two years of peace and order, democratic elections would take place. In the post-election period a small national police force could gradually take over and replace the peacekeeping mission. As in Costa Rica, the military would be permanently abolished and political liberties guaranteed by civilian rule.

In order to bring us closer to this goal, tough action by Congress is necessary. Such action should include:

1. A stipulation that no further military aid shall go to El Salvador unless the Government of El Salvador carries out, in the words of the Kissinger Commission, "vigorous

action against those guilty of crimes and the prosecution to the extent possible, of past offenders"; and the United States government carries out "serious sanctions, including the denial of visas [and] deportation" of US-based Salvadorans involved in death squad activities;

2. A stipulation that Congress, not the President, will make this determination prior to allocating any further funds to El Salvador.

President Reagan has committed this nation to a policy of ever-increasing military escalation, a policy which cannot work and may well end in increasing pressure for intervention by the United States military.

To begin the peace process in Central America, the Congress should first require that the President commit to both negotiations and elections, instead of continuing to insist that he will only discuss FDR/FMLN participation in elections organized by the Government.

Secondly, the President should instruct Ambassador Richard Stone to develop a common negotiating agenda, in which both sides' demands are included.

Thirdly, the President should convene negotiations, together with the Contadora nation, within three months of enactment of legislation.

Fourthly, the Congress should support negotiations by conditioning further military aid to El Salvador upon serious negotiations by both sides.

As we all remember, President Carter brought former implacable enemies together in the Middle East, and successfully negotiated an agreement that none thought possible.

I believe this can be done in Central America, if the President of the United States commits to peace rather than war, and negotiations rather than escalation.

Mr. BARNES. Thank you, Mr. Ambassador.

Colonel King, welcome to the Foreign Affairs Committee. We look forward to your testimony.

STATEMENT OF LT. COL. EDWARD KING, U.S. ARMY (RETIRED)

Colonel KING. Thank you, Mr. Chairman. I would like to make a shorter statement and include the longer testimony in the record.

Mr. Chairman, the purpose of my testimony is to express the reasons why I believe a military stalemate continues in El Salvador and to focus on some fundamental points regarding what the ultimate outcome of increased U.S. military assistance to the Salvadoran Armed Forces is likely to be.

ILLUSION OF A MILITARY VICTORY

During seven trips to Central America in the last 16 months, I have become convinced that by pursuing the illusion of winning a military victory in El Salvador the United States is seriously damaging our future relations in Latin America and lurching dangerously close to having to involve our own troops in the fighting there.

I have the impression that the United States is using the military doctrine of counterinsurgency rather than sincere diplomatic negotiations as the means by which we hope to achieve a political settlement in El Salvador. And I do not believe this heavy emphasis on a military-oriented solution is going to work.

PACIFICATION PROGRAM

I don't believe it will work because the counterinsurgency doctrine is a fatally flawed concept that has a track record of far more failures than successes over the past 20 years.

For example, it is the basis of the national plan which forms whatever overall field strategy the United States has in El Salvador. The centerpiece of this plan is in San Vicente Province where military action to drive the guerrillas out of the area combined with U.S.-funded civic action projects to encourage Salvadorans to return to their homes in the area is supposed to produce stable democratic conditions favorable to the political objectives of the Salvadoran Government.

I was in San Vicente, San Lorenzo, Santa Clara, San Esteban de Catarina, and San Felipe, the principal towns in the province, just 7 weeks ago.

I can tell you that this so-called "pacification" project that started in June 1982 is going very, very slowly. There are few people living in the small villages outside the town of San Vicente.

The Army has its best immediate-reaction battalion in the province and yet you are still stopped in midday by guerrilla checkpoints on the road between Santa Clara and San Felipe, towns that are supposedly Government-controlled.

The national plan counterinsurgency strategy does not appear to be working well.

U.S. military advice and assistance to the Salvadoran Army also has not been very successful. Only 40 percent or less of that 25,000-man Army is actually assigned to combat duties. Thus permitting

the FMLN guerrillas to maintain close combat parity with a smaller total force. This combat parity allows the guerrillas to fight the kind of hit and run war of attrition that they need to eventually grind the larger, better equipped and trained Army down to a point of collapsed morale and loss of will to fight.

Despite 30 years of U.S. military advice and assistance, the Army is plagued by weaknesses in command and control, improper organization for battle, careless tactics, lack of combat leadership, and failure to properly use intelligence.

Only the poorest and least-educated of Salvadoran society are press-ganged or conscripted into the ranks of the Army. These teenagers then only serve for 2 years, which means units are always in transition.

One in every two soldiers wounded in battle die before they reach medical attention and the wounded who do survive often lose limbs from infection.

I do not believe that \$200 million or \$400 million more in U.S. military assistance is going to cure these longstanding weaknesses in the Army. If increased military assistance was the answer, it would have worked before now.

INSUFFICIENT MILITARY ASSISTANCE IS NOT THE PROBLEM

Insufficient military assistance is not the major problem in the Salvadoran Army. Its problem is the inability of the command leadership to instill in its troops a will, desire, reason, and skill to fight and possibly due for the present Government and Army organization.

Nor is more money going to improve the quality of U.S. military advice. The hard truth is that U.S. military doctrine, organization for battle, strategy, and tactics don't work very well overall and particularly won't work in small infantry-heavy Central American armies.

The tendency of the U.S. advisers is to try and rebuild these small rudimentary armies into replicas of the sophisticated airborne structures that are prescribed for the U.S. Army's concepts of counterinsurgency warfare. This not only requires a tremendous amount of training and maintenance, it also ignores the basic traditions and organization of the local army.

It is risky and difficult indeed to rebuild an army engaged in battle with a resourceful foe, and that is, in effect, what we have been trying to do in El Salvador for the past 2 or more years.

An example is the recent fiasco with the cazador or hunter battalions. U.S. advisers have been trying to reorganize the Salvadoran Army into these small 350 man units. But, after 4 or 5 weeks of hurried training at the U.S. Training Center in Honduras, these units did not function as expected in the field and are now being reorganized again to better fit them to combat guerrilla tactics.

Over the next month or so I believe you can expect that the guerrillas forces will launch a series of offensive operations in Chalatenango and Morazan hoping to inflict a major defeat on the Army before the March elections.

The Army units will be trying to catch a large guerrilla force out of its stronghold area and force it into a stand-up battle in which the Army and Air Force's firepower can destroy it.

You gentlemen in the Congress are going to be pressed to provide increased military assistance, in the range of \$20 million it now appears—to supposedly bolster the Army's will and ability to fight.

You are going to hear the same old tired arguments, that if you don't vote the money the Army is going run out of ammo in the middle of battle, this despite the stockpiled basic load of U.S. ammo stored around in El Salvador; and the standard pitch that with just a little more time and money the Salvadoran Army can finally reach a sufficient level of training to cure its many longstanding ills, and, of course, there's the clincher that more money will mean more helicopters for the Army, which will make it possible for a reinforced infantry company to move around the country by air chasing the guerrillas instead of patrolling on foot to try and find them, if the helicopters are flying.

But how about the money already spent on this army? Why hasn't that produced at least a facsimile of the return that's now being promised for more military assistance? Since 1980 the United States has sent an average of about \$60 million each year in military assistance to El Salvador.

From 1953 to 1966 the United States sent \$6 million in military assistance to El Salvador and kept 20 military advisers stationed there. Now we have 50, but the Salvadoran Army continues to have many of the same problems it had when the 20 were there.

There must be a lesson here somewhere regarding how much you can do with money and advisers.

The Congress should look into why the past programs have failed before authorizing increased millions for more of the same.

A CLEAR-CUT VICTORY BY EITHER SIDE UNLIKELY

In conclusion, Mr. Chairman, I do not think a clear-cut victory by either side is likely in El Salvador. A continuing military stalemate is more likely so long as the army has the will to keep fighting and we pay the bill.

In my opinion, a military victory would require a massive commitment of U.S. men and money far beyond what I believe the American people are prepared to support.

But, Mr. Chairman, the small number of combatants on the right and left in El Salvador should begin to realize that the majority of the Salvadoran people—those in the middle being killed by both sides—are losing hope. They want an end to the war and peace. So why not now take advantage of the fact that the U.S. military objective of denying the guerrillas the chance to win political power through military force has been accomplished. Why don't we do this instead of sending increased millions for military assistance? Why don't we try to stop this killing that is going on in a stalemated war of attrition and let us sincerely begin to support and strongly push the regional negotiations initiatives of the Contadora countries and find an early political settlement to end this tragic civil war before our ideological stubbornnesses cause our own young men to try to begin to bail us out in combat there.

Thank you, Mr. Chairman.
 Mr. BARNES. Thank you, Colonel.
 [Colonel King's prepared statement follows:]

PREPARED STATEMENT OF LT. COL. EDWARD L. KING,
 U.S. ARMY (RETIRED)

BIOGRAPHY

Independent private consultant working on foreign and military policy issues and political campaigns. Completed undergraduate studies at the University of Nebraska-Omaha and graduate work in Latin American Studies at the University of Madrid, Spain. Also a Spanish language graduate of the U.S. Army Language School and a graduate of the U.S. Army Command and General Staff College with a field of study in counterinsurgency.

He has been a faculty lecturer on military studies in the European Division Program of the University of Maryland. A guest lecturer on military policy in the Taft Interdisciplinary Program at the University of Cincinnati.

Enlisted in the U.S. Army as a private, served as a combat infantryman in World War II and the Korean War and voluntarily retired as a Lt. Colonel of Infantry in 1969. Saw service in Asia, Europe, and Latin America. In 1962, assigned to the U.S. Embassy, Madrid, Spain as a Military Assistance Group advisor to the Spanish Army and as embassy military briefing officer. Last military assignment was as Joint Chiefs of Staff military liaison officer to the U.S. Delegations to the Inter-American Defense Board, Joint Brazil-U.S. Defense Commission, Joint Mexican-U.S. Defense Commission and as JCS liaison officer to the staff of the U.S. Ambassador to the Organization of American States (OAS). In 1969, assigned as a member of one of the State/Defense Policy Planning Groups convened to prepare National Security Study Memoranda on U.S. foreign policy options in Latin America for the 1970's. Awarded U.S. Legion of Merit for this last period of service.

Author of The Death of the Army: A Premortem (Saturday Review Press/Dutton 1972), published in Spanish by Granica Editor, Buenos Aires, Argentina in 1973. He has written numerous newspaper and magazine articles on foreign and military policy. Served as Executive Director of the Coalition on National Priorities and Military Policy during the early 1970's. In 1982 he briefly covered Central America as a newspaper reporter.

He has been a consultant to Senator Mike Mansfield, a special staff consultant to the Joint Economic Committee, a defense policy advisor to Senator George McGovern's 1972 Presidential Campaign and from 1976-1979, Executive Assistant to Senator William D. Hathaway.

Has traveled extensively in Central and South America as a private consultant, as a member of Congressional fact-finding groups in 1982-83, and as a member of Inter-American defense study groups, and as trip director of the U.S. Department of Defense Military Delegation annually invited to attend Mexico's Independence Day Ceremonies, 1966-1969.

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you and discuss the military stalemate which exists in El Salvador and outline my views on what I think this means in regard to present and future U.S. policy decisions in that area.

Mr. Chairman, the purpose of my testimony is to express the reasons why I believe a military stalemate continues in El Salvador and to focus on some fundamental points regarding what the ultimate outcome of further U.S. military assistance and advice to the Salvadoran Armed Forces is likely to be.

In the past sixteen months I have made seven trips to Central America. During each of these trips I have spent a week or more in El Salvador. I have had an opportunity to speak with political and military leaders on both sides of the Salvadoran

Civil War and to observe combat units of the Army and the FMLN guerillas. These discussions and observations have caused me to have serious doubts about U.S. military programs in El Salvador.

Today in El Salvador the United States is using the concept of military counterinsurgency as the vehicle through which it is hoped "democratic" socio-economic and political change that is acceptable to the United States can be achieved. The counterinsurgency doctrine, developed by the U.S. Army in the late 1950's as a means of waging low-intensity warfare, dictates that armed opponents of a government should be militarily defeated by government forces using direct and covert operations. These military actions are supposed to be combined with political/military directed civic action programs which are designed to cause the population to cease to oppose the objectives of the government and desert the insurgents.

Thus military victory brought about with U.S. military advice and equipment and successful civic action projects carried out with U.S. economic assistance, are supposed to ultimately produce a situation of democratic stability in El Salvador or wherever the counterinsurgency doctrine is applied. And this is basically the concept of the "National Plan" which is the strategy being followed in El Salvador.

An examination of the track record of U.S. application of the counterinsurgency doctrine is not encouraging. It has more often failed than succeeded in establishing democratic stability in any place it has been used. We should not forget that it was through the counterinsurgency doctrine that we sent advisors and

equipment to South Vietnam and when the surrogate forces we had organized and trained were militarily unable to gain victory, we sent in Green Beret Teams to conduct covert operations and train them some more, and when that also failed, we then sent in U.S. combat divisions to try and save the situation.

The counterinsurgency doctrine is a fatally flawed concept and doomed to fail, no matter how much U.S. money, military advice and equipment is lavished upon it, because it does not provide the means to achieve an acceptable political outcome that all sides can support. Use of surrogate military forces backed by U.S. power to sustain governments acceptable to our interests, but that represent at best a narrow political base that cannot provide a truly democratic political solution, is not likely to succeed no matter how many insurgents are killed and civic action projects are started.

The major problem for U.S. policy in El Salvador and other areas of Central America, is that it is based on an outdated, bankrupt military doctrine of counterinsurgency as an initiative for accomplishing United States policy goals in developing areas of the world in which there is conflict and political upheaval. Continued reliance on this obsolete doctrine will eventually leave the United States little alternative between sending in troops to prop-up a demoralized Salvadoran Army, or accept its ultimate defeat in the war of stalemated attrition it chooses to fight.

Despite major increases in U.S. efforts in advising, training and equipping the Salvadoran Army over the past two

years, the military situation remains a stalemate. Approximately five to six thousand guerrilla combat troops continue to tie-down the thinly spread 25,000 man Army and National Guard through a series of hit-and-run attacks in rural areas which have only marginal tactical importance but great propaganda value.

The well-organized and increasingly mobile guerrillas can sting the army in several places at once, winning local victories over small detachments of poorly trained National Guardsmen and in ambushes of army convoys. In November and December of 1983 they made excellent use of their intelligence sources within the Army High Command and struck two major Army brigade headquarters using captured U.S. 81 MM Mortars and 90 MM cannons. This marked the first time that FMLN units had effectively used supporting-fire weapons to overrun a major army position. The large amounts of weapons and ammunition which they captured in these attacks and their new-found skill with the mortars, probably means they will attempt to repeat these attacks. But it does not mean that the guerrillas can yet risk a stand-up battle to attempt to defeat the army. They can't stand against the artillery and airborne firepower of the army in an open battle yet. However they can continue to grind it down and wear it out through hit-and-run attacks.

The better equipped and trained army has been able to seize and hold the initiative only during periods when the guerrillas have pulled their main combat forces back into stronghold areas in Morazon and Chalatenango Provinces. It is significant that

even with overwhelming artillery and air firepower superiority, the army has been unable to seriously challenge the guerrilla's control of these stronghold areas despite several attempts to do so over the past two years.

This is as much due to the reactive tactics of the army as it is to the fact that it is thinly spread about the countryside attempting to protect key installations, keep roads open and guard some populated areas. But the lack of offensive capability can also be traced to other factors. Only about 40% or less of the army is actually assigned to engage in combat and in the classic infantry fighting going on in El Salvador, this means about 10,000 Salvadoran combat soldiers engage the five to six thousand guerrilla combatants. This low army combat-skill ratio permits the guerrillas to maintain combat activities far beyond what their overall combat strength justifies. And the army continues to be plagued by problems in command and control, improper organization for battle, careless tactics, shortages of combat leaders, failure to make proper and timely use of intelligence.

These are not problems that more military assistance money, or more U.S. military advisors will solve. These are long-standing problems that only the Salvadoran military can correct. Continued failure to correct them results in lowered morale throughout the army and is a prime reason why they are unable to seize and hold the initiative against a smaller number of inferiorly armed guerrillas.

Army morale and combat effectiveness also suffer because of

the personnel policies in effect. Soldiers serve for only two years, which means that units are almost constantly in transition and experienced men are in short supply. This is particularly true among the non commissioned officer ranks which have a high turnover rate from both casualties and end of service discharges. Most soldiers are 15 to 18 years old with little or no education. Only the poorest part of the Salvadoran society serve in the ranks that are filled with press ganged volunteers and campesino conscripts. There is little incentive for a low-ranking, teen-age, soldier to do more than serve his time and try to survive to return to poverty. Considering the conditions of service it is amazing that army morale is not even lower than it is.

One in every two soldiers wounded in combat die before they reach medical attention (U.S. ratio in Vietnam was 1 in 10). If they survive their wounds there is no Veterans Administration to turn to and pensions are inadequate if payed. It is not difficult for anyone who has experienced infantry combat to understand why these young soldiers, who are payed less than fifty cents a day, and have little to look forward to after their service but to return to the same exploitation are not particularly anxious to aggressively risk their lives in combat. And they know that the guerrillas generally release prisoners to the Red Cross and the Army then discharges them because they are no longer considered reliable.

On the FMLN side the guerrillas are also having recruiting problems. They are requiring some villages in the 35% of the

country that they have nominal control over, to furnish young men between the ages of 14 to 18 years old for military service. Guerrilla combat units have teen-age men and women serving in them for the duration of the war unless they are wounded, killed or run away. In the units I have seen the morale has been surprisingly good, considering the primitive conditions under which they live and fight. It is noteworthy that the guerrillas seem to have a relatively high percentage of their people in actual combat jobs with support functions being carried out by women and children who accompany the forces as the "Masa" or logistical personnel. It is interesting that the guerrilla units now appear to be armed with more standard weaponry, M-16's are now plentiful and many guerrillas are carrying U.S. fragmentation grenades instead of the homemade fruit-juice can grenades they carried a year ago. The FMLN also has medical treatment problems for its wounded. Like the Army they have evacuation problems and even more difficulty in treating their wounded because they are sustaining casualties from bombing, strafing and artillery fire which the Army doesn't have to contend with.

Their dedication to combat is reinforced by the Army practice of not taking prisoners. The incentive for the lower-ranking guerrilla soldiers is strengthened by their belief that if they can win, they look forward to not returning to poverty but as victors could hope for something better from life. The guerrillas are fighting a war of attrition in which they gain the advantage from the existing stalemate. The longer

the indecisive fighting continues the greater strain it places on the frustration and war-weariness already apparent in the Army. Under such conditions it is more likely the guerrillas will wear the Army out rather than the other way around.

The Kissinger Commission and the Pentagon leadership have suggested that what is needed to give the Salvadoran Army the ability to seize and hold the initiative in the war is to provide it with \$400 million in additional military assistance over the next two years. I do not believe that more U.S. money is necessarily going to solve the command, organizational and tactical problems which afflict the army. If this were the case why have these same problems continued despite past commitments of millions of dollars in U.S. military advice and assistance. Insufficient military assistance money is not the major problem in the Salvadoran Army. Its problem is the inability of the command leadership to instill in its troops a will, desire and reason to fight and possibly die, for the present government and army organization. More U.S. millions are not going to change this intangible yet vital shortcoming. Increased military assistance money is not going to buy high morale in the Army's troops, that can only come from within the unit leadership.

Another \$400 million is not going to buy experienced and effective combat commanders for the army. Training second lieutenants in the United States does not change senior level command blunders or remove incompetent commanders. Nor is rewarding an army that is unable to seize the offensive and refuses to accept much of U.S. military advice, with increased

military assistance funding a very likely way to encourage that army to reform itself. At least the Congress ought to require the Administration to submit a line-item listing of how it proposes to spend the additional military assistance funding it is requesting. This list should show how each major line-item expenditure of money would correct particular weaknesses in the army and improve its combat capability. Like the certification required on improvement on human rights, the Administration should be required to show more precisely how military assistance money will be spent to improve the performance of the Salvadoran Armed Forces before increased funds are authorized.

Perhaps we also need to face the unpleasant truth that U.S. military advice and training leaves a great deal to be desired. For over 30 years the United States has had military advisors stationed in El Salvador and throughout Latin America. In El Salvador those military advisors have helped organize, train and equip the Salvadoran Armed Forces. Over those years the U.S. has spent thousands of dollars in military assistance to send hundreds of Salvadoran soldiers and officers to the Panama-based U.S. School of the Americas to train them in a wide variety of military skills. Others have been trained at military installations in the United States.

Yet when this U.S. trained and equipped force came into conflict with a small number of guerrillas newly trained and equipped by Cuba, the Soviet Union and other countries, it was not adequately prepared to fight effectively and required large amounts of increased U.S. military advice and assistance. Like

the U.S. trained armies of South Korea and South Vietnam, when the test of battle came the Salvadoran Army was not ready despite years of U.S. military advice and assistance. Again, we had to rush in increased military assistance to try and save another U.S. trained army from defeat. The question that begs to be asked is why is it that after 30 years of U.S. military training in doctrine, organization, tactics and logistic procedures a 25,000 man Salvadoran Army is unable to effectively fight and win against 6,000 hurriedly trained and lightly armed irregulars? Could it be that U.S. training and tactics are incorrect? Or is it because the Salvadorans refuse to follow U.S. military advice and tactics due to profesional pride and their inherent dislike and mistrust of U.S. motives and objectives in El Salvador? the Congress should try to find answer to these questions before it approves sending more millions in military assistance.

We should recognize that for the most part the Salvadoran officer corps has strong feelings about letting "gringo" advisors tell them how to run their army. While they may like individual U.S. officers, overall there is considerable subconscious dislike of Northamerican advisor's attempts to influence military operations. Some senior Salvadoran military officers see the U.S. lecturing them on how to fight a guerrilla war and on human rights violations, as arrogant and hypocritical in view of the U.S. Army's failure on these same matters in Vietnam.

In any event it makes little sense to keep nearly 50 U.S.

military advisors in El Salvador if their advice is resisted and their presence resented. Just as it seems counterproductive to send hundreds of millions of dollars in military assistance to put down an insurgency if that money is not used in a way that the highest ranking U.S. military officer in-country believes is most effective. For example, for nearly two years the U.S. Military Group commanders have stressed the need for small 350 man "hunter" battalions to patrol and keep pressure on the guerrillas. In line with this U.S. concept, military assistance funds were used to hastily train several of the "hunter" battalions at the U.S. training center in Puerto Castillo, Honduras. The U.S. plan was to convert most of the Salvadoran Army units into these small mobile battalions.

However, upon return to El Salvador, after four to five weeks training, these "hunter" battalions did not perform as expected in field operations. They were frequently ambushed on day patrols and were extremely reluctant to conduct the constant night patrolling which is essential in limiting guerrilla movement and surprise attack. Furthermore, these marginally-trained, small, lightly armed battalions presented tempting targets for larger guerrilla forces to ambush and seek to annihilate in order to further destroy the Army's morale and will to fight.

Now after only five months of use, Salvadoran commanders are reorganizing the "hunter" battalions into 600 man units with more arms and communications equipment, in a shift away from U.S. Military Group advice and counterinsurgency training. This

marks a return to the Army's previous large unit tactics, which were long criticized by U.S. military advisors. Is it then still necessary to keep 50 U.S. advisors in El Salvador?

It is noteworthy that the advocate of these changes in eliminating the "hunter" battalions is Lt. Col. Domingo Monterrosa, Commander of the eastern region Third Infantry Brigade and until December, 1983, commander of the Atlacatl Reaction Battalion, which is considered the most combat-effective battalion in the Salvadoran Army. In my opinion Lt. Col. Monterrosa is the most imaginative and capable combat commander in the Salvadoran Army. He is a leader who inspires the loyalty and confidence of his troops and if the Army is to be successful in combat much of the responsibility for that success will depend on Monterrosa.

I believe we can expect that over the next month or so, the guerrilla forces will launch a series of offensive operations in Chalatenango and Morazan hoping to inflict a major defeat on the Army before the March elections in El Salvador. Key in this effort will be the Zabala battalion commanded by Commandante Joaquin Villalobos of the Peoples Revolutionary Army. This is the FMLN's newly-formed immediate reaction battalion of about 900 tough, veteran guerrilla fighters, who are equipped with captured U.S. rifles, machine-guns, hand grenades, mortars and ammunition, as well as Soviet RPG's, 120 MM Mortars and some Chinese 60 MM Mortars. Villalobos will be seeking to isolate and quickly defeat some smaller Army unit in an effort to break the Army's will to continue fighting. Monterrosa will be attempting

to maneuver and trap Villalobos's forces in the open away from their strongholds to force them into a stand-up battle in which superior Salvadoran Army and Air Force firepower can be used to destroy them.

No matter how this maneuvering and fighting evolves, you gentlemen of the Congress are going to be pressed to provide greatly increased amounts of military assistance on the same old grounds that just a little more time and training will cure the Salvadoran Army's ills. You will probably be told, for example, that additional military assistance money will enable the U.S. to send urgently needed helicopters which will be the means to so greatly improve the mobility of the Army that it will be able to seize the initiative from the fast-marching guerrillas.

Of course, no one will point out to you that troops who currently can't outmaneuver the marching guerrillas with jeeps and trucks and who don't like to patrol on foot are going to do better when they can depend on using helicopters. Nor that even if the U.S. sends in a quick - fix of helicopters, the Army will be able to lift only about a reenforced company of infantry even when all the helicopters are flying - something that rarely happens even in U.S. Army units with their skilled maintenance. Despite the questionable performance of costly U.S. Army Air Mobile concepts in Vietnam, you in the Congress will be expected to believe that this sophisticated concept can be super-imposed on a conscript Central American army and that it will work!

And the classified intelligence reports you will receive from the Defense Intelligence Agency (DIA) will stress that

while things are not going exactly as hoped, the Salvadoran Army will make progress with additional training and more equipment. Guerrilla forces will increase in the total strength figures reported by DIA as the women and children in the "Masa" are figured in as "combatants", since they are now carrying the extra weapons that the guerrillas have captured in abundance from the Army at San Miguel and El Paraíso. The fact that the "Masa" seldom if ever fight will be ignored, but it will make the comparative figures between the Army and guerrillas look a little less one-sided. That, after all, is the object of the exercise.

Old intelligence acquaintances tell me that once again, as during Vietnam, the analysts in DIA are being pressured to put the best possible face on the reports coming in from the field in El Salvador. High level civilian and military officials in the Pentagon and in Southern Command never want to be the bearers of bad news which makes their command or the Department appear to be unsuccessful or ineffective. I think reports coming from U.S. observers in El Salvador are for the most part quite accurate, but I believe there is a certain amount of "gilding of the lily" going on before they are made available outside of the Pentagon.

Thus I think that regardless of how much the situation deteriorates for the Army, you can expect to continue to receive intelligence reports that support the thesis that military progress is possible if only you are patient and vote more money to pay for the unending training needs and insatiable demands

for equipment. This is easier than telling you that U.S. military concepts of doctrine, organization, mission, training and tactics aren't working well in El Salvador. And it prolongs the time before our own military forces have to face these hard facts of field experience.

Another fundamental point which I think the congress would be well-advised to examine concerns the organization, operation and training of the security forces in El Salvador. The second condition of the certification requirement specifies that the Salvadoran military must achieve substantial control over Armed Forces death squads if military assistance is to continue. In November 1983, military command changes reassigned most of the military death squad control personnel to other duties and this may reduce the activities of the Army death squads. But it does little to control the death squad operations of the security forces, which are also part of the armed forces.

The officers of the security forces, such as the National Police and Treasury Police, are military officers trained in the Salvadoran Military Academy. This military training teaches them that their role is to destroy the enemies of the country and win in battle. This is not appropriate training for police who are supposed to enforce the law by apprehending violators of public order - not kill them as enemies.

This dichotomy in training, mission and mindset is one of the reasons that the security forces in El Salvador are so repressive. They are after all soldiers not police in the classic sense. Technically, no U.S. military assistance is

furnished to the Salvadoran security forces, since U.S. law prohibits such aid. But this begs the problem of how to reform the security forces.

I believe that the officers of the security forces should be decommissioned from the armed forces and assigned to a National Police Force patterned after Costa Rica's police force (Fuerza Publica). If Costa Rica would agree, advisors from their police force could be sent to El Salvador to assist in retraining the security forces. This would require appropriate legislation by the Congress to permit U.S. aid funds to be used to pay the costs involved in such training. But if such a reorganized and retrained police force could be formed out of the security forces and placed under the direction of the civilian Minister of Justice rather than the Minister of Defense, I think it would be a vital step in controlling the torture and killing charged to the current military controlled security forces.

In conclusion Mr. Chairman, I do not think that a clear-cut military victory by either side is probable in El Salvador. A continuing military stalemate is more likely unless the United States is prepared to make a massive commitment of men and money, far beyond what I suspect the American people are prepared to support. In my estimation, the Administration's military objective of denying the FMLN guerrillas the opportunity to win political power through military force has been accomplished. However, a military stalemate will not continue indefinitely, so now is the time to exploit this

accomplished objective.

The Administration and the small percentage of combatants on both the right and left in El Salvador should begin to realize that the majority of the Salvadoran people are losing hope. This majority is tired of being the victims of a ruined economy, indiscriminate killing by extreme right death squads, leftist guerrillas, army and security forces in a war that seems without end. I think a majority of the Salvadoran people want a ceasefire and negotiations to end the killing and destruction. The large voter turnout in the March 1982 election expressed more this desire by the people to end the war, than to support any particular candidate.

Instead of allocating \$200 million or more dollars to increased military assistance to prolong the existing stalemate and continue the killing, why not take advantage of the opportunity offered by the regional negotiation initiatives of the Contadora countries and work to find an early political settlement to this tragic civil war. The U.S. should not delude itself into thinking that a military victory is possible in El Salvador without the eventual use of U.S. combat troops.

Mr. BARNES. Mr. Mintle, welcome to the Foreign Affairs Committee.

**STATEMENT OF NORMAN C. MINTLE, INTERNATIONAL REPORTER,
CHRISTIAN BROADCASTING NETWORK**

Mr. MINTLE. Gentlemen of the committee, it is an honor for me to be here and tell you a little of what we have seen in El Salvador. I recently spent 8 days in El Salvador as a nonpartisan observer of the current situation in that country. Having grown up in Central America and visited the region frequently, I serve as ranking specialist for Latin American affairs for Dr. Pat Robertson, president of the Christian Broadcasting Network.

Our viewers, comprised of 5½ million television households nationwide—which translates to over 11 million people—are increasingly concerned about the reported unrest in El Salvador and my most recent trip was designed to get a firsthand view of the facts for purposes of reporting back to our audience.

I shall concentrate my testimony on observations made in three major areas.

First, the heartbeat of the common people is for peace. Again and again, in my conversations with campesinos, refugees and urban professionals, they all related their longing for a speedy resolution that will allow them and their families to once again pursue their individual dreams.

In the refugee camp in San Vicente, I spoke with a young mother who had been routed from her home 3 years earlier, fearing for her life and the lives of her children. She was not politically aware enough to have an opinion about the upcoming elections.

All she wanted, she told me, was to go back to her home in the valley without fear of guerrilla attacks and raise fruit in her yard once again.

In that same refugee camp I asked a teenage boy why he had to leave home. He seemed uneasy about answering me directly and would only say, "The man made me go." When I pressed him as to who the man was, he finally responded, "guerrillas."

In the cities the police attempt to maintain urban peace by routinely stopping incoming buses and other vehicles at random, searching for terrorists and their weapons. We observed that the people, far from being angered by those interruptions, actually appreciate the efforts of the police, in spite of the inconvenience—because those people are committed to peace.

LAND REFORM MOVING FORWARD

Second, there is good and healthy progress in El Salvador. The much maligned land reform program, initiated by the revolutionary junta of 1979 is moving forward steadily.

It is a massive job, something akin to taking the 200 largest ranches in the American West away from their owners and distributing them among thousands and thousands of farmhands.

In El Salvador, this is a worthy project, but I think patience needs to be our watchword.

POLITICAL PROCESS IN EL SALVADOR

The healthy progress of El Salvador extends to the political process as well. Six candidates, as you know, are vying for the presidency, and the campaign is as lively and free-spirited as in any democracy.

In the cities everyone is talking about the campaign. A medical doctor expressed the opinion that most Salvadorans hold: "It doesn't matter who wins," he said, "as long as we have clean elections, and a clear-cut winner."

The doctor realized, as do most Salvadorans, that any president will be largely constrained by the parameters of the reform program established by the 1979 junta. The progress of El Salvador is written on the faces of her people.

In 1980, at the height of the urban terrorist activities I was there and I watched life return virtually to normal only moments after the firebombing of a restaurant, the demolition of a downtown bus, and even a military skirmish in a poor barrio, after which a dozen bodies had to be removed from the street.

That ability to make life return to normal—that social resilience—is a remarkable quality of the Salvadoran people. This phenomenon is still alive today in an even larger sense.

The capital city of San Salvador is thriving. I have brought along photographs of people working in the streets and living, a wedding going on, happiness on the faces of the peoples that we as tourists took. People go about their business, the markets are full, the fruit is plentiful.

The city police, once so beleaguered that they had to patrol in groups of two and more, now stroll their beats alone.

The city, like its people, has bounced back. Even the angry graffiti which once marred virtually every building, sidewalk, and statue in the city, has been all but completely cleaned up.

Religious activity has shown significant growth. In 1979 200,000 Salvadorans regarded themselves as evangelical Christians. Today church leaders report the figure at nearly 2 million. This statistic manifests itself beautifully in everyday Salvadoran life: A concern for one's neighbor, the prospering of internal aid programs, and a proud sense of national solidarity.

MORALE IN THE ARMY IS HIGH

Finally, on the military front things are much different than what we read, reported in this country. Morale in the army is high. I spoke with soldiers in San Salvador, San Vicente, San Lorenzo, Usulután, and the strategic military base high atop the Guazapa volcano.

In every instance, both on and off the record, soldiers expressed confidence that they will win, support and respect for their commanding officers, and appreciation for the help of the American advisers.

Very few of them break ranks and defect; those who have are remembered by the soldiers as mostly young recruits who became frightened and homesick.

While guerrilla activity continues primarily in the eastern portions of the country, actual guerrilla control of any area is exceedingly difficult to specifically confirm.

GUERRILLA-CONTROLLED ZONES

We read in the December 5 issue of Newsweek magazine and the December 12 issue of Time magazine, several broad regions of the country were depicted on maps as being controlled by guerrillas.

When we visited those specific areas, especially the Guazapa Volcano just outside of the capital, we found things very different. Instead of finding a threatening guerrilla presence menacing the capital city, we discovered five well-entrenched Salvadoran Army bases—and they were encountering guerrilla activity only rarely.

The young Salvadoran soldiers were confidently patrolling the area, contentedly surviving the routine housekeeping chores of army life; they even fried up tortillas and beans and eggs for us for supper that evening.

This war could have been fought in one of several ways. A lieutenant colonel in the Salvadoran Army pointed out to me that the conflict could be over in a matter of days. Simply bombing known insurgent strongholds would eliminate the problem very quickly, but by that method thousands of innocent civilians would die, and the army has consciously made the moral decision not to sacrifice human life unnecessarily.

Instead, they have opted for an appropriate, humane strategy, which first defends the lives of the country's citizens; second, protects the crucial life-support system of the people, the bridges, the arms, the hydroelectric plants, the surgarcane factories and the recent harvest, and finally responds to crises precipitated by the terrorists.

Obviously the death squads exist, and they are often comprised of members of the armed forces.

A plainclothes military officer told me that death squads customarily recruit from among the bitterest and most disgruntled members of an army unit, those who have suffered the deepest personal losses through the war.

DEATH SQUAD ACTIVITIES

President Magana met with us and emphatically denounced the activities of the right wing death squads. His government, he assured us, would redouble its efforts to wipe out this abhorrent activity.

HUMAN RIGHTS VIOLATIONS BY THE GUERRILLAS

A point, however, must be made. The world press routinely ascribes virtually every killing in El Salvador to the work of right-wing death squads, when in fact the guerrillas on the left are, by their very nature and purpose, death squads.

The guerrillas routinely kill innocent people, as well as each other, and there is dissension in their ranks because of it.

We interviewed a young guerrilla, captured just 4 days before, named Jose Guadalupe Hernandez Garcia. Without his captors

present, he told us of brutality within the guerrilla ranks. Food-stuffs are often in such short supply, he said, that guerrillas raid the homes of innocent campesinos, some of whom are murdered if they resist in the slightest way.

Thousands are driven out by this means into refugee camps. This young guerrilla recounted an incident in which his own unit, virtually starving to death in the mountains, came to the home of an old woman living alone to beg, borrow, or steal food.

The impoverished old senora herself had nothing to eat, and the commanding officer of the unit, the guerrilla named Ricardo Beltran, in his frustration, ordered her to be shot on sight.

The guerrillas' lack of respect for human life extends to their own troops. Hernandez Garcia told of his comrades killing wounded members of their own units if they were unable to keep up. He also explained how guerrilla fighters are recruited: In his own unit of 700, more than 200, he said, had been kidnapped and forced into servitude.

Indeed, 24 others in Hernandez Garcia's unit had laid plans to defect from the guerrilla movement on the very night after his capture.

Clearly, the left has lost its vital base of popular support. We talked with Prof. Luca Israel Cardona, who until recently was Secretary General of the Association of University Educators. He rose through the ranks of the left to become one of its most highly placed leaders.

Cardona became more and more disenchanted as he observed the disparity between the preaching of the left and the practices of the left.

Finally he renounced the left entirely. Cardona explained to us simply that all the primary activities of the left, destroying bridges, disrupting the political institutions, and so forth, actually harm the people, not the Government.

He lamented that in 1979 and 1980 the common people were quick to help the guerrillas, providing them refuge and safety, but today the citizens are just as quick to point them out to the authorities.

Our trip demonstrated to us, and subsequently to those millions of television viewers, that the American people are not getting the true story. Few Americans, for example, have been told by our news media that you gentleman of the Congress have approved three times more economic aid than military aid for El Salvador. Few Americans have been told by the news media that guerrilla forces actually control only the slightest sliver of Salvadoran territory.

Few Americans have been told by the news media that the armed forces of El Salvador are confident of winning, and are, indeed, winning this conflict.

In fact, for some reason the only battle that the leftist guerrillas are winning is the battle being waged in the American media.

Our press has reported a story. The American people ought to have the facts.

Thank you, Mr. Chairman.

Mr. BARNES. Thank you, Mr. Mintle.

Mr. Diskin, welcome, sir.

STATEMENT OF MARTIN DISKIN, MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Mr. DISKIN. Thank you, Mr. Chairman.

As you noted in your introduction, I am a professor of anthropology at MIT, and for the past 3 years I have been studying the agrarian reform program in El Salvador. My most recent research trip ended about 3 weeks ago.

The various certification statutes that Congress has passed, including section 101(b), Public Law 98-151, which is mentioned in Secretary Shultz' status report on January 25 on the agrarian reform program, all speak of progress in implementation of the agrarian reform program in El Salvador as a precondition for continued U.S. support.

As Secretary Shultz said in his status report on January 25: "Promotion of land reform stands at the very heart of El Salvador's effort to encourage social equity, political stability, and economic development." Unfortunately, the agrarian reform is not now contributing to any of the goals mentioned by the Secretary.

In explaining why that is the case, I would like to focus on three points. They have to do with the domination of the agrarian reform mechanism by ARENA since the March 1982 legislation, with the implications for continued agrarian reform embodied in the most recent constitution ratified in December 1983, and the very significant, perhaps the most significant, issue, the welfare of those beneficiaries who, after 4 years of agrarian reform, have not received many benefits at all.

DOMINATION OF LAND REFORM BY ARENA

With respect to the first point, after the election of March 1982 during a long interregnum during which a government of national unity was being negotiated through the office of the American Ambassador, and through interaction of the various political parties, one of the conditions for creating this government of national unity was the handing over of the Ministry of Agriculture to ARENA, a party which had taken somewhat less than 30 percent of the vote as against 40 percent of the vote again by the Christian Democrats, who had been the traditional supporters and implementers of agrarian reform.

ARENA, of course, during its political campaign, was quite outspoken in attacking the agrarian reform in every aspect one might imagine, from its moral, financial, and bureaucratic angles. Once ARENA, through its Minister of Agriculture seized control of the agrarian-reform apparatus, a restructuring of the agency began.

All the constituent so-called autonomous agencies, the ISTA, agrarian reform movement itself, FINATA, implementing phases of the land-reform program, the agrarian bank which gives most of the credit to the reform sector, and the institute which purchases basic grains, which acts somewhat as a subsidizing institute to keep prices for produce higher and for consumers low, all of these with the exception of FINATA, which is still controlled by a colonel active in the Army who has successfully escaped the political influence of ARENA, the other three agencies mentioned, plus numerous other small agencies charged to train peasants, to promote coo-

perativism, to promote all sorts of technical agricultural assistance to the reform sector, have basically been staffed with people whose loyalty to ARENA takes precedence over their agricultural competence, or any other dedication to the original goals of land reform in El Salvador.

REEVALUATION OF COOPERATIVES UNDER PHASE I

I might cite three areas in which this restructuring has had a profound impact, and which in my view does not constitute continued progress in the agrarian reform. One has to do with the reevaluation of cooperatives in the phase I section.

As you know, phase I is where the largest farms were confiscated and turned into peasant cooperatives. The peasant cooperatives have a mortgage, an agrarian debt, that they must pay back to the Government, which is based on the valuation given according to a formula of the previous property.

In many cases, long after the properties have had their values established, according to the legal reform law in decree 153 of March 1980 the basic law, landowners have come back now with an ARENA denominated ISTA Board of Governors, asking for increase in the value of their lands that have already been confiscated, arguing that certain improvements had been included but were not noted at an appropriate time, with very scanty evidence, and in all cases have had these applications approved.

As a double consequence of this activity, one is that funds badly needed for extension, for credit, for other supports of the reform program, are simply denied because they are going in many cases in the form of cash to exlandowners.

The second consequence is that agrarian debt, the mortgage that these new peasant beneficiaries have, is increasing accordingly.

ARENA describes phase I of the agrarian reform as a failure, as an economic failure. It points to the fact that 140 co-ops are in arrears, whereas only 120 were able to successfully pay their agrarian credit at the end of the year.

Examining the data, one might reach exactly the opposite conclusion. While the numbers of co-ops cited are correct, if you look at the aggregate amount of money invested in credit, then it turns out that the rate of default—this has been true for the past 3 years—is on the order of 23 to 24 percent. That is to say, those 140 co-ops in arrears are the smallest, probably the least well organized, with some severe problems, including those of violence, and the amounts of credit they owe are miniscule compared to the amounts of credit returned.

A 25-percent rate of default compares very favorably with any agrarian program in Latin America and, incidentally, compares very favorably with the nonreform sector in El Salvador.

In spite of this decent economic performance, also in spite of the fact the production levels and yields for basic grains and export crops in the reform sector are the equal or improvements over the nonreform sector, ARENA continually describes phase I as a failure.

Now it does so in a very special way. It describes it as a failure in the managerial and economic efficiency sense. What it has done

therefore is to end or to slow down enormously the social service aspect of the co-ops, something which they are charged to do under the legislation, and to impose new managers on these co-ops.

These are new managers who have been trained in a program called managerial development, which ISTA is quite proud of, basically giving control of the co-ops to individuals and no longer to the cooperative group, which was also embodied in the original legislation, and looked to a structure that is very much like the Lacienda structure, where the peonas would come to work and simply take orders.

ARENA'S OBJECTIVES IN THE ELECTIONS

The third point about the restructuring can be found in the political program of ARENA for the upcoming campaign. ARENA has not only been attacking reform since they seized control of the ministry but for the upcoming campaign they are playing, in other words, to, as they say, erase the collectivism scheme implanted by the Christian Democrats, basically a call for the reprivatization of the co-op sector.

It involves handing titles to people that will become negotiable instruments, so that the people who are beneficiaries of phase I, who are now drawing salaries exactly the same as they were before as day laborers, as Honolaros, salaries which are in many cases below the minimum wage, but who now have millions of colonies in agrarian debt will only be too happy to sell out their interests through these negotiable instruments, and so that it is easily predictable that if the ARENA platform for the agrarian reform is passed, that is an ARENA victory or coalition in which ARENA has a lot of influence, then within the next 5 years the old landowners of the largest co-ops will be the new landowners of the same properties.

The second point I would like to raise has to do with the constitution of 1983. Far from being an equitable compromise, described as such by the State Department, this constitution first of all, I bring to your attention, has no section on land reform. There is no section in the constitution entitled agrarian reform.

Under title 5, the economic order, there are new articles, crucial ones that have to do with the conduct of agrarian reform. Each of these articles begins with a preamble, once again affirming the right of private property and private initiative, private versus cooperative. That is to say, the constitution in its first—just in the surface language is a real attack against the cooperative movement.

Article 105 raises the maximum amount of land to 245 hectares from 100, which the original basic law stated, and grants such favorable terms to host landowners to whom it may be applicable, terms such as 3 years in which to settle their affairs during which time they may divide, they may freely rent, the article says, they may sell their property in any form they wish.

While it does say they may sell to some close relatives, there is a provision that land held by heirs to an estate as one piece of land may immediately be divided in individual title to each heir, although land may still be worked collectively by the heirs.

GENEROUS LOOPHOLES IN THE PROGRAM

That is to say, the loopholes are so abundantly generous to land-owners in phase II and the language is so hostile to those who might be future beneficiaries that, first of all, the amount of land available at the end of a 3-year period will probably be less than 5 percent of the available land in phase II that was originally envisioned by the basic law of agrarian reform.

It is easily predictable therefore that in that land there won't be a square inch of coffee land unless for some fluke it turns out to be convenient to the owner of that land. Not touching coffee land in El Salvador is, as someone told me, not touching the spinal column of the agrarian system, which is, as you know, the basis for capital formation and for political power in that country. It certainly will have difficulty promoting, as Mr. Shultz said, political stability.

The third point has to do with the real benefits of this agrarian reform. In a study recently completed at the Central American University under the beneficiaries of phase III, it turns out that phase III beneficiaries are very much like the 1977 AID report on the rural poor which described the panorama of 75-percent infant malnutrition, 83 percent poverty as measured by a \$225 per capita per year income per person, and people working for very low wages, whose production levels are still low, because they are suffering from a deficit of credit and technical assistance.

BENEFICIARIES ARE NOT BENEFITTING

In short, the beneficiaries are not benefiting. The tenure of their land is still quite insecure because of violence, intimidation, and the real problem of evictions and assassination.

Included in benefits for phase III beneficiaries, indeed for all beneficiaries, is the very important issue of their participation in the political system through their legitimate peasant representatives.

The resurgence of death squad activity that began some time in the middle of last year was aimed at this sector. Because in the context of the constitutional debate, these peasant groups came forward to influence the outcome of this debate. It was precisely at that time that their major leader's life was threatened publicly, that other people were the victim of assassination attempts, and indeed many of them did lose their lives during that outbreak of death squad activity.

So that the beneficiaries, both in phase I and in phase II, and beneficiaries in terms of more political space in which to make their case, have in fact gone backward rather than forward.

To conclude, I might simply say that if you read the section on social improvement in the Kissinger Commission report, the enormous, the astronomical sums of money that are proposed to be thrown at the problem of agrarian development and agrarian reform would delight the heart of ARENA no end.

Having pulled a sleight of hand act whereby what we called agrarian reform in 1979 has been transformed into its diametric opposite, the apparatus is completely set up at the moment to receive any sort of abundant American aid that may be coming down the channel, because the mechanism is in place to use it properly,

unfortunately, not for the proper continued progress of agrarian reform in El Salvador.

Thank you.

[Mr. Diskin's prepared statement follows:]

PREPARED STATEMENT OF MARTIN DISKIN, MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Members of the Committee: Thank you for the opportunity to address you today. I am a professor of anthropology at M.I.T. and for the past three years I have been studying the agrarian reform program in El Salvador. I returned from my most recent trip two weeks ago.

The various certification statutes that Congress has passed, including sec. 101 (B), P.L. 98-151 all speak of progress in implementation of the agrarian reform program in El Salvador as a precondition for continued United States support. As Secretary Shultz said in his status report on January 25, "promotion of land reform stands at the very heart of El Salvador's effort to encourage social equity, political stability and economic development." Unfortunately, the agrarian reform is not now contributing to any of goals mentioned by the Secretary.

That is because, as one consequence of the rightward movement of the Salvadoran government, begun shortly after the October, 1979 coup, the control of the agrarian reform program has passed into the hands of those who have been implacable enemies of it. The ARENA party and the interests it represents assumed control of the Ministry of Agriculture as part of the Government of National Unity agreed to after the March 1982 elections. Since then, they have restructured the Ministry, and re-staffed its agencies (with one important exception) with people whose adherence to party ideology takes precedence over commitment to the reform or competence in agrarian matters.

The result has been that, in Phase I, the peasant cooperatives created on the large, expropriated holdings, the social equity mentioned by Secretary Shultz has been eliminated under the slogan of "technical reform". ISTA, the agrarian reform agency has shown greater solicitude for former owners than for present beneficiaries. In Phase III, the Land-to-the-Tiller" program, the administering agency, FINATA, because of its independence from ARENA, is the object of constant attack from its own Ministry of agriculture, right-wing agricultural pressure groups, and ARENA itself.

The rightist majority in the Constituent Assembly succeeded in passing a constitution that, far from being, "a healthy display of democratic compromise" represents a cruel disillusionment to those who have been waiting patiently to be included in the reform. In my view, it is a grave setback in the accomplishment of the goal of political stability cited by the Secretary.

Finally, after almost four years of agrarian reform, the beneficiaries have not been benefitted. Neither the members of Phase I cooperatives, who still work for minimal daily wages, when there is work, nor the Phase III recipients of tiny, impoverished plots of land, have seen improvements in basic welfare.

Right-Wing Control of the Reform Sector—Of the four "autonomous" institutions of the agrarian sector (ISTA, FINATA, Banco de Fomento Agropecuario-BFA, and Instituto Regulador de Abastecimiento-IRA), only FINATA, through the efforts of its director, has avoided right-wing politicization.

Within ISTA, charged with implementing Phase I, while the budget has increased and it has grown in staff size, services have been reduced to the peasant cooperatives. ISTA presently discusses the reform exclusively as a technical reform, measured only by standards of efficiency and profits. The social goals written into the original legislation (decree 153, the Basic Law), have been ignored and reduced in scope by ISTA. Instead, ISTA describes Phase I as a failure and focuses on the inability of certain cooperatives to repay their loans. In fact, in aggregate terms, the rate of default on credit is about 23 percent for the reform sector, and has been at that level since the reform began. This compares very favorably with other Latin American countries and with the non-reform sector in El Salvador. ISTA's attack on Phase I is really an attack on the cooperative principle, explicitly designed into the reform.

In addition to attacking the cooperatives, ISTA has been allowing former land-owners, whose properties have been valued already, to submit further claims that they were not fully compensated. As a result, several large properties were increased in value, without adequate documentation. This not only rewards former owners unfairly, but places a correspondingly greater debt burden on the cooperatives.

There have been many complaints that credit extended to the cooperatives has not arrived in time for the intended purposes. Most of this credit comes from the BFA, part of the reform sector. Through the marketing boards such as IRA that purchases grains or INCAFE (coffee), INAZUCAR (sugar), or COPAL (cotton), cooperatives are kept waiting, after delivering these commodities, to be credited for their deliveries. Instead of being able to reduce their bank debts after the harvest, the funds that their crops represent go into "restricted" accounts, drawing no interest, until the purchasing boards themselves sell these commodities. Meanwhile, the cooperatives must face debts that accrue interest.

While ISTA has reduced the participation of "social promoters", i.e. people who helped explain the functioning of the cooperative and performed other needed services there, it has begun to impose "managers" on the cooperatives to make decisions concerning the use of funds and other agricultural matters. In some cases, these managers are related to former land owners, and in many cases they are seen by cooperative members as an unwanted presence. Nevertheless, the cooperatives must pay a part of their salaries and in three more years, will pay all of them.

ISTA's strategy is consistent with the ARENA political platform, where they advocate the privatization of the cooperatives by issuing titles for individual plots and shares in the cooperative, in order to stimulate individual buying and selling.

The Constitution of 1983—The voting for this constitution in December, 1983, was done along strict political lines. The rightist coalition held firm and succeeded in changing one of the most important parts of the original reform as well as transforming the reformist tone into one of concern for private property. There is no section in the new constitution marked agrarian reform.

The sections relevant to agrarian reform, articles 104, 105, and 106 continually reaffirm support for private property and private initiative. None of the language of the Armed Forces Declaration of October 15, 1979 is there, nor any of the explanatory sections of the actual agrarian reform legislation.

Article 105 raises the maximum amount of land that can be owned to 245 hectares, increased from 100-150 in the original decree 153. It further provides ample possibility for landowners to "divide, transfer, and rent freely", for a period of three years. These provisions are so liberal for landowners that it is easily predictable that at the end of that time, if any land is affected, it will be of poor quality, definitely not for coffee production, and so little of it as to be negligible.

Those whose lands might be affected at that time are given more generous treatment than in the original law. Article 106 recommends cash payment and in the case of extended payments, a period not to exceed fifteen years.

The document mentions "smallholders" in various places but never identifies them as beneficiaries of decree 207, i.e. (Phase III). The smallholders discussed in article 116 who will receive credit and technical assistance from the state, and in article 119 that speaks about housing, seem to be those landowners who have not been touched by the reform.

This constitution closes down Phase II and shuts the door on further land reform. More importantly, it gives a signal to the traditional opponents of reform that they now have legal cover both to resist the activities of the reform supporters as well as to demand greater direct support from the government.

The reform has, to date, involved about one-fifth of El Salvador's farmland and rural population. But it has not touched the "spinal column" of El Salvador's agricultural economy, coffee. Nor has it affected the more than half of the rural population that is completely landless. Rather than talk about social equity, it might be more accurate to regard this large, impoverished mass as a time bomb, ignored until now by the reform. There was general agreement among the peasant organizations that this constitution will do more recruiting for the guerrillas than promote "political stability".

What have been the real benefits of this reform to its beneficiaries? Those members of Phase I cooperatives now find themselves subordinate members of a structure every bit as domineering as in pre-reform days. They are still working for wages, and few if any cooperatives have distributed any dividends to its members. However, now the cooperatives are the bearers of enormous debts that must be paid off on long term mortgages. A significant fraction of cooperative members still do not have adequate housing on the land they "own" to be able to live there.

In a study conducted at the Central American University in San Salvador, studying the effects of Phase III on its beneficiaries, it was found that, even after receiving titles, families could not achieve an income level to pull above a modest poverty floor. Since the reform has extended about as far as it can go, it is difficult to see how it can contribute to economic development as Secretary Shultz believes.

Perhaps as important as giving access to land is the receptivity to organized groups that advocate on behalf of peasant beneficiaries. Of those groups in existence (many have been driven out of operation) none have any real participation in the public discussion of the reform. After publicly and peacefully expressing their point of view during the constitutional debate last year, they experienced a wave of intimidation and assassinations. They have also been prevented from using the newspapers to bring their message to the public. When the constitution was ratified, it was clear that the small voice they had was now stilled. Without the active input of beneficiary representatives, they continue to be marginal to the political process.

Conclusions—The agrarian reform in El Salvador has undergone a major change in the last two years. Dominated by a rightist coalition, the original intent and the tone of reformism have been eliminated from the conduct of the reform. The systematic sabotage of the original reform project has damaged what small possibilities it had to contribute to constructive change. When the United States offered support to the agrarian reform, it meant the reform stated in the original decrees. That effort has been aborted and, in my view, no longer qualifies for assistance.

The comments contained in the Kissinger Commission Report about agricultural development (pp. 57-9) simply recommend throwing money at the problem without understanding its social and political dynamics. The ARENA-dominated implementors of the Salvadoran agrarian reform program would like nothing better.

THE DIRECTION OF AGRARIAN REFORM IN EL SALVADOR PREPARED FOR THE INSTITUTE FOR FOOD AND DEVELOPMENT POLICY BY MARTIN DISKIN, MASSACHUSETTS INSTITUTE OF TECHNOLOGY, JANUARY 30, 1984

Summary of Findings

The agrarian reform program in El Salvador is not making the "continued progress" necessary to receive United States support. This is for four principal reasons;

1. Since 1982, the implementation apparatus for the agrarian reform has been in the hands of ARENA. When the Ministry of Agriculture was given to ARENA after the 1982 election, they had the opportunity to implement the anti-reform policies they had been consistently advocating. They have restructured the agrarian reform agency (ISTA), asserted financial control over the peasant cooperatives on the largest landholdings, de-emphasized the social services they are required to provide, and are laying the groundwork for the re-privatization of the cooperatives.

2. The ratification of the 1983 constitution was accomplished through the same right-wing coalition that took over in 1982. This constitution effectively eliminates the available land for redistribution, and talks more about the sanctity of private property than the social necessity of agrarian reform. It represents a victory for anti-agrarian reform advocates.

3. Of the more than half-million beneficiaries in Phase I and Phase III, virtually none of them have experienced an improvement in their standard of living. This is, in Phase I, because of the systematic sabotage of the reform by ARENA, and in Phase III, because of the difficulty of improving the welfare of those who, to begin with, are very poor and are only given a tiny, impoverished bit of land. Thus far, none of the auxiliary services and supports (i.e. credit, technical assistance) have found their way to the beneficiaries of Phase III.

4. The representative organizations of agrarian reform beneficiaries are being excluded from the process. Without their active participation, the historic enemies of reform will have a clear field. Unfortunately, that is exactly what is now happening.

El Salvador has always depended on its agrarian sector. Agriculture has been the crucial determinant of the economic, social, and political state of the country. Although a very small country, it has enjoyed great productivity. But success in production has brought a series of social problems that have plagued the country for a century. The fortunes amassed by the few who control this society have been obtained at the cost of impoverishment of the vast majority of peasants and farmworkers.

This has left a legacy on the one hand of poverty, malnutrition, and illiteracy, while it has led to increasingly harsh steps to insure docility of the work force, on the other. The social tension that this created has been at the boiling point for generations. The numerous protests against injustice have always been countered by lethal force exercised by the military and paramilitary allies of the landowners. The most serious clash occurred in 1932, the matanza, where thousands of farmworkers, peasants and Indians were murdered. Thoughtful Salvadorans have never accepted the smoldering peace left in the wake of 1932 as a solution. Rather, the need for agrarian reform is a continual item on the agenda of social questions to this day.

The exaggerated land concentration, and its attendant enormous disparities between rich and poor were recognized as problems to be solved before any significant development could occur. By 1971, 1.5 percent of all farms accounted for 49 percent of all farmland while 92 percent of the farms represented only 27 percent of the land, (1) usually of the poorest quality.

As a consequence 83 percent of the rural population were

classified as the "rural poor," living on incomes of less than \$225 US per capita per year. Three-quarters of all rural children under five suffered clinical symptoms of malnutrition (2). In 1975, more than 40% of this population was completely deprived of land, depending on agricultural wages earned during the peak agricultural season on the larger landholdings. (3) With so much landlessness, the under- and unemployment rate was at about 50 percent(4).

One effort to respond to this situation was the agrarian transformation (transformacion agraria) instituted in 1976, on a pilot basis, in San Miguel and Usulután. This modest test, involving only 4 percent of the land, with very generous terms for former owners, was successfully resisted by landlords, with military and vigilante support. "This failure to bring about a modicum of social change in the countryside, even when such a project had the backing of the military government, had a discernible effect upon political developments, especially amongst the reformist parties, which had set great store by the reform"(5).

The decade of the seventies saw a cycle of protest and repression that exploded in the military coup of October 15, 1979. The junta that took power at that time resolved to institute reforms that would ameliorate the social disparities and enfranchise the majority of Salvadorans, help them share the national wealth, and thereby establish an enduring peace.

An agrarian reform was the key project initiated in 1979. The United States quickly recognized the junta and supported its

reformist trajectory. As the conflict heated up it became clear that those who came to control the government were seen as condoning , or not controlling, or even participating in large-scale systematic violations of human rights. Congress imposed restrictions on the granting of assistance to the Salvadoran government. The President was required to "certify" that the government of El Salvador was "making continued progress" in a number of areas, among them the land reform initiated in the Spring of 1980. This report assesses whether there has been "continued progress" in land reform. To do so first requires discussing what is meant by land reform, progress, how it is to be measured, its current state, and future possibilities.

What Must Agrarian Reform Reform?

Because of the intimate relation between economic and social justice, any program of agrarian reform must accomplish two things. First, it must distribute the sources of wealth more equitably so that the beneficiary population experiences a short term improvement in welfare. Second, it must open the political system to enable these beneficiaries to have a real and continuing voice in the national decisions that affect their condition.

Land redistribution is, by itself, not the whole answer to rural poverty. The amount of land distributed must be sufficient to produce enough for rural families. But how much that is depends on the quality of land, the crops sown, and the level of technology and credit made available to new landowners. Handing out small parcels of impoverished land without providing the resources to develop it, merely maintains and reinforces the

traditional levels of poverty. The large mass of completely landless rural poor must be provided for through improvements in wages and working conditions. This large group, probably more than half the rural population will constitute a time bomb if its needs are not addressed.

Political participation in the process of agrarian change is no less important. In order to consolidate the gains made in the structure of landholding, organized pressure must be brought to bear to hold at bay the traditional enemies of the reform process. Simply declaring a reform does not eliminate the powerful pressure groups that have always resisted reform.

The agrarian reform proposed by the junta made no provision for the landless farmworker population. While it was receptive to peasant organizations, in the course of time, their role was diminished.

The Reform Program

The reform legislated in early 1980 contained two distinct parts. The first, embodied in the "Basic Law" (decrees 153 and 154), and enacted on March 5, 1980, provided for the confiscation of all landholdings over 100 hectares (150 in the case of poorer quality lands). [Note: 1 hectare=2.47 acres]. These lands were to become cooperatives run by the people who worked these farms before. The second part of the reform, decree 207, passed on April 28, 1980, also called the "Land-To-The Tiller" program, transferred ownership rights to tenants and sharecroppers.

The "Basic Law" was to be implemented in two phases. Phase

I, covering farms over 500 hectares in size, would affect about 15% of all land in farms and about 30,000 families as cooperative members. Phase II, covering the remaining farms over 100 hectares would affect 24% of all land in farms, although provisions of the law greatly reduce this amount. Decree 207 is often called Phase III. The most accepted figure for the potential beneficiary population of Phase III is 117,000 families and a liberal guess for the amount of land potentially affected is about 150,000 hectares (ca. 10% of all land in farms).

Thus, under the most generous assumptions, the entire reform could have affected about half of the land in farms and perhaps 40 percent of the rural population (6). At the outset of the reform, it was described as the most "sweeping" land reform in Latin American history (7).

It soon became clear that this was a sweeping claim. In Phase I, the number of beneficiaries has never risen to more than half the original 60,000 claimed. Also, part of the land that was to have been affected within that phase (about 14,000 hectares) was claimed as a "right of reserve" by former owners (8). Phase II has never been implemented. (more on that below). Phase III thus far has involved 90,000 hectares and 60,000 families (9). In total, the reform has involved about 23% of all farmland, and about 18% of the rural population (10).

The agrarian reform has been virtually exhausted, and now looks considerably less sweeping than originally claimed. The first point to be made then, about "continued progress" in reform must reflect this reduced accomplishment.

The evaluation that follows will consider the actual reform

rather than what was claimed at the outset. Within these limits, it will try to look behind the numbers to see how much progress has been made in accomplishing the two critical goals of reform outlined above. Finally, it will assess the future potential of this reform.

Recent Legal Changes

One striking characteristic of the Salvadoran land reform has been that its major legal statements are sketchy; they leave the implementation to mechanisms determined after the fact and subject to shifting political pressures. As a result, contradictions are thus designed into the reform process. This has given rise to public attack on the legal validity of the reform as well as to the possibility of stalling. During the period of the "agrarian transformation" of 1976, for example, public debate centered on the 1962 political constitution's definition of property. Both supporters and opponents of this mild reform project claimed to find strong support for their point of view in article 32, dealing with the "social function of property." The effect of this debate was to abort the reform, and, in the view of many observers, contributed to the replacement of the Molina government by the much more repressive regime of Gen. Romero that was ended by the military coup of Oct. 1979.

During the life of the Constituent Assembly (March 1982-Dec. 1983) the most important legislative and constitutional matters dealt with the agrarian reform. The debates over the future of Phase III, decree 207, resulted in decree 6 permitting land

rental again for one agricultural cycle. Since then Phase III has been under constant attack by the right and, while it has been extended several times, (most recently until June 1984), it remains an embattled part of the reform. Changes in decrees 153 and 154 occurred through the assembly's constitutional debates. Significant change also occurred in Phase I through administrative and ideological changes that took place in ISTA (Instituto Salvadoreño de Transformación Agraria).

Phase II of the reform, covering lands between 100-150 to 500 hectares, was perhaps the most discussed aspect of the reform. Some said that this "froze" all those lands, creating such insecurity that landowners were unwilling to invest in improvements or even maintenance of farms. Virtually all national level politicians, including the Christian Democrats, supported its indefinite suspension. Still, the legal possibility of expropriation of these lands was intolerable to the far right that wanted to eliminate Phase II entirely. The occasion of the drafting of a new constitution activated political discussion both in Salvadoran society at large as well as in the Constituent Assembly. In particular, draft articles 103, 104, 105, and 106 refelected a much more narrow understanding of the reform process.

Beginning in Aug. 1983, a coalition of peasant and labor groups, the UPD (Unidad Popular Democrática) began applying public pressure against these provisions of the draft constitution. This pressure took the form of a demonstration in front of the Constituent Assembly in August 1983 of 3000 persons,

one in September where 25000-30000 people peacefully demonstrated, as well as paid advertisements in the newspapers and other media. The increase in death squad activities at that time was largely aimed at stifling the participation of this sector. Some dozen members of the UPD and allied groups were killed and widespread public threats were issued. Newspapers were threatened to not accept paid advertisements, a common form of political expression in El Salvador. The UPD was also denied use of the radio and television and must now rely on reaching the public through the dissemination of its own printed declarations.

The crucial questions in the constitutional debate concerned; a) defining the possibilities for future reform, b) maximum amount of land ownable, and c) mechanism for expropriation (notice, payment, and disposition prior to expropriation).

Following a "popular public forum" held on July 24, 1983 in San Salvador, the UPD published an open criticism of the then current draft constitution being circulated and debated in the Constituent Assembly. It sought a series of changes in language that would reaffirm the primacy of the agrarian reform and would reiterate its principles in the new constitution. It sought to direct the transfer of state land to peasant and landless groups (art. 103), to reduce the capacity of landowners to sell or otherwise transfer lands that were included in the reform or (art. 104) "that might be in the future, for reasons of social interest or public utility" (11)111. In its proposed new article 105 it specified all the possible reasons for state expropriation of land, leaving the previous legal maximum of 100-150 hectares

in force. It proposed a new article where the state is given greater flexibility in compensating ex-landowners (12). Thus, aside from the Christian Democratic party, that favored the reform as it was originally written, the UPD was the only countervailing voice to the strident attacks on the reform that emanated from rightist groups such as ANEP, ASI, the various associations of coffee, cotton, and sugar growers and ARENA. This was the same coalition of groups that fought the agrarian transformation of 1976.

The assembly debate centered around the maximum acreage allowance and at various points proposals were put forward that ranged from 100 hectares (Christian Democrats) to 500 (ARENA). The outcome, labelled by the State Department "an equitable compromise" settled for a maximum of 245 hectares. Perhaps it was a compromise in the sense that it reflected some give and take in the rightist-dominated assembly, but in terms of agrarian reform it was perceived as a bitter blow to even the small fraction of the rural population that are potential beneficiaries of reform. In the words of the UPD, "this new constitution has not succeeded in resolving the fundamental problems of the people, and principally, the problems of the majority, composed of more than three million workers and peasants. In reality, what has been done is to leave these problems with no resolution, once again creating obstacles to the political solution, that the people have sought ..." (13).

Constitution of 1983

In the final approved version of the new constitution, there

is no special section labelled agrarian reform. Nor is there is any language expressing the social need for reform such as exists in the Armed Forces Declaration of Oct. 1979, nor in the text of decree 153, the Basic Law. The Armed Forces Declaration lists the need for agrarian reform under the heading of "measures that lead to an equitable distribution of national wealth, while at the same time accelerating the gross domestic product"(14). Decree 153, the "Basic Law" defines agrarian reform in its article 2 as "the transformation of the agrarian structure of the country and the incorporation of its rural population in to the economic, social, and political development of the nation, through the substitution of the system of latifundia by a just system of property, ownership and use of the land; based in equitable distribution of the land, adequate organization of credit and assistance for agricultural producers so that the land might constitute a base for economic stability, a foundation of progressive social welfare and guarantee of liberty and dignity for those that work it" (15).

After an intense public debate that masked a great deal of behind the scenes bargaining, virtually the identical political alignment that emerged after the March 1982 elections approved the new constitution, with little change from the assembly draft. The final vote in the Constituent Assembly was 34 in favor. Although the Christian Democrats had won 40% of the popular vote in 1982, the ARENA-led alliance that has effectively excluded them from a voice in the assembly, held fast in the constitutional vote. Thus, the anti-reform forces won a battle that was neither "equitable" nor a "compromise." It is difficult

to see how Secretary Shultz could say that the "basic reforms were incorporated into El Salvador's new constitution" (16).

The 1983 constitution under title V ("Economic Order") commits the state to promote economic and social development "through an increase in production, productivity and rational resource use" (art. 102)(17). The same article says, the state "will promote and protect private initiative within the conditions necessary to increase national wealth and to insure the benefits of that to the greatest number of inhabitants of the country (18). Art. 103 , "recognizes and guarantees the right of private property in its social function"(19). This phrase, appearing in the 1962 constitution, receives no further definition here. Art. 104 mentions agrarian reform only in a discussion of state property. It says that state property may be bought by agrarian reform beneficiaries or by "public utility corporations" (20). Article 105, after once again expressing that the state "recognizes, promotes, and guarantees the right of private property" and...limits itself "for any reason to reduce the maximum amount of land established by this constitution as a property right", fixes the maximum amount of land that may be owned at 245 hectares. It further permits landowners referred to above to "freely transfer, alienate, distribute, divide and rent" land. With holdings over the limit, the owner may decide immediately which part he wishes to keep and register it with the government, i.e. legally protect it from future efforts at expropriation. Furthermore, all of this may be done over the next three years before any expropriation will begin (21).

Land already held by agrarian reform beneficiaries, "will be subject to a special regimen", of an unspecified nature. Article 106, which deals with expropriation emphasizes in its language the need to prove either the "public utility" or the "social interest" served by such expropriation. It further specifies prior payment (except in cases of eminent domain) and reduces the length of the payment schedule to fifteen years instead of the twenty or thirty as stipulated in the original law. These payments are to contain the "corresponding bank interest" which is to be paid preferably in cash (22). Thus, the new constitution has succeeded in reducing the scope of state intervention in reform, and protected landowners from expropriation while upgrading their compensation in case of expropriation.

While the 1983 constitution does not comment directly on Phase III, the assembly passed an extension of this provision until June 30, 1984. This extension has already come under public attack on the grounds that with the new article 105 protecting lands under 245 hectares in extension, no seizure of land in that category may be carried out (23). The author of the attack, a member of ARENA, further argues that since the provisions of 207 are contradicted by the new constitution, decree 207 itself is unconstitutional. Given the obvious conflicts built into the constitution with decrees 153 and 154, with regard to upper limits of affectable land, forms of payment, etc., an analogous argument is sure to be raised concerning Phase I.

If the 1962 constitution opened the door to reform and the 1979 coup mandated, legislated, and began its implementation, the 1983 constitution represents a step backward beyond 1962. It has

set such stringent limits on reform that one might say there are no further possibilities to accomplish the social goals intended by the original reformist project.

Performance to Date-The Numbers

The administration's previous certification evaluations of the performance of the agrarian reform has been measured almost exclusively in quantitative terms. Real performance, i.e. judging whether the reform is satisfying the two basic requirements of any agrarian reform, involves going beyond the numbers. Although these numbers only tell a small part of the story, in this section let us examine several aspects of the quantitative performance of the agrarian reform.

In Phase I, since the number of properties included in the reform has been virtually constant since mid-1980, most attention has focused on compensation and titling, i.e. the number of former owners who have been paid for their land and the number of new cooperatives that have received their titles. As of the end of November 1983, there were 31,359 cooperative members (there is considerable uncertainty as to the validity of this number since some functioning members do not formally register, and some families have more than one member). This totals 188,154 beneficiaries including all family members (24).

The compensation of former owners has proceeded apace. By the end of Nov. 1983, 194 previous owners had been paid a total of \$120,149,032 in a combination of cash and bonds. 127 properties were approved for compensation at a cost of an

additional \$87,417,553, and 105 requests for compensation were under consideration. This total of 426 properties includes many (about 100) that were already taken over by ISTA prior to decrees 153 and 154. This represents a compensation rate of 75%. However, of those properties paid for only 25 had been issued titles. That represents a titling rate of only 6%. If it is measured against the number of Phase I "productive units," i.e. cooperatives, listed in the Progress Report, the rate goes to 8% (25). The AID report of Nov. 1983 states that, "After the cooperative's debt has been established, final negotiations between the cooperative's board of directors and ISTA are completed, and the land transfer title is executed" (26). Although the only step remaining is the drawing up of the payment plan, i.e. the schedule of mortgage payments to retire the debt incurred by the cooperative, the report states that "legal and procedural complexities of the agrarian reform have limited the number of titles issued"(27). The gap between compensated properties and titled ones means that ISTA as the legal owner will continue to exercise considerable influence over these cooperatives for some time, and in the meantime, the new cooperative members are in the position of wards of a government agency instead of newly independent landowners.

In Phase III, to date, applications have been submitted for about 90,000 hectares (6.2% of all land in farms) by about 60,000 people (28). These people have submitted a total of 74, 548 applications for land (a person can apply for more than one parcel) for an average of 1.52 hectares per applicant (3.7 acres). The gap is closing between applications received

(74,578) and provisional titles issued (53,401) but there remains a much greater distance between provisional titles and definitive titles (4,767).

Turning to compensation and titling, we see here the reverse situation from that in Phase I; ex-landowners have not applied for compensation (as they must under the rules of decree 207) but definitive titles are being issued in much greater numbers than are landlords being compensated. The former owners in many cases have said that their refusal to seek compensation is because of their opposition to the reform (29). Thus far, for the 4,767 for which definitive titles have been issued, only 447 former owners have been compensated. The number of beneficiaries that correspond to these former owners is 6,755. This means that only 11% of the beneficiaries are on lands that have been compensated and the compensated properties tend to be the larger ones.

Phase II-Although legislated in the original agrarian reform decrees (153, 154), this politically sensitive part of the reform has been dormant since 1980. That is because, contained in Phase II are 24% of all farmland, but more significantly, 30% of national acreage devoted to coffee production. Although coffee is not mentioned in any reform legislation, a high official in the national bank has called coffee "the spinal column" of the agrarian economy. In 1982, for example, coffee accounted for about 60% of the value of all exports (30). Control of coffee, the wealth and power that come with it, have been the keys to dominance in Salvadoran society for a century. That is the reason for the enormous resistance to Phase II.

Still, as though in anticipation of the struggle that would ensue in reforming this category, the original Phase II legislation contained an enormous loophole. The "reserve right", i.e. the exemption of 100-125 hectares from property taken by the government, would have left this phase greatly reduced. Assuming all reserve rights would be exercised (in Phase II they could be withheld before expropriation in contrast to Phase I where they had to be petitioned for after expropriation), the available amount of land would be reduced by about 2/3. Subtracting other lands, e.g. lands taken through Phase III legislation, lands sold to ISTA under Phase I, (decree 153) this reduces the potential available to less than 1/5 of the original amount (31).

The actual resolution of this issue through passage of the new constitution is even more restrictive. Only about 5-6% of the total that Phase II represented will be available for distribution. This small amount will predictably involve a negligible amount of coffee producing land.

The argument that the real effect of Phase II would be minimal was mainly used to justify its postponement. The real resistance to implementing Phase II developed as the composition of the junta moved in a rightist direction shortly after the military coup of Oct. 15, 1979. The "postponement" announced by the Christian Democrat controlled Ministry of Agriculture was justified in terms of reduced bureaucratic capacity, lack of funds, and shortage of technical capability. With four years of hindsight, it appears that this phase was foredoomed. It further qualifies this reform as a much more modest one than was claimed

at the outset.

Had Phase II been vigorously pursued it could have been a force for social transformation. With a government committed to distribute coffee land more equitably, and to support the new beneficiaries with credit and extension services, a social base could have been created that would have supported a reform more faithful to its original goals. The abortion of Phase II was one measure among many that paralyzed the reform as an instrument of social change.

United States policy, while formally supportive of agrarian reform, has backed off from criticism of the changes that have occurred in the conduct of the reform. The State Dept. approves of the new constitution though, in reality, it is the death knell of the reform. The United States maintained support for the assembly, although dominated by a rightist coalition, and openly hostile to agrarian reform. This support took precedence over support for a reform that, while seriously flawed from the outset, still had some capacity for material improvement and social mobilization of the rural poor.

Changes in the Administration of the Reform

Since 1980 when the Junta decreed the reform, there has been steady pressure to alter it from an instrument for "a new economic and social order in accordance with principles of social justice and revolutionary ideology" (32) to a "technical" reform, increasingly in the hands of those who have historically opposed it. When the ministry of agriculture was handed over to ARENA after the 1982 election, the character of the reform changed drastically. The ARENA-dominated ministry of agriculture has

systematically replaced key personnel, monopolized the procedures for decision-making, reduced the participation of the campesino organizations, and through its influence on various governing bodies, catered to ex-owners at the expense of the new peasant beneficiaries. At the same time, nothing has been done to curb the systematic violence that continues to plague the reform, permitting the continued presence of an obstructive military, direct intimidation of beneficiaries, and even publically condemning parts of the very reform they are supposed to be enforcing.

The most important agency within the ministry is ISTA (Instituto Salvadoreño de Transformación Agraria). Its four major roles are, "1) land acquisition, 2) temporary co-management while cooperatives become organized and capable of self-management, 3) land adjudication and 4) coordination of inputs and technical assistance by other government organizations".

(33). The coordination mentioned in point 4) has turned into de facto control. ISTA participates in the central bank (Banco Central de Reserva) to help determine the credit line for agriculture, as well as in the agricultural bank (Banco de Fomento Agropecuario). Also included in the ministry of agriculture are the various commodity purchasing boards. They include the grain purchasing board (IRA), the coffee export marketing agency (INCAFE), cotton export marketing agency (COPAL), the sugar export marketing agency (INAZUCAR). Through the operation of these agencies, great control over the entire reform process has been exercised. In addition, the various

technical assistance agencies are included in the same structure.

In studying the performance of the ministry as a whole, interviews were conducted with different people located at various levels. In all cases, where an interviewee made any critical comments, it was understood that they were not to be attributed by name. Whether the interview was conducted in an office, or in a public place, or even in the person's home, it was clear that there was great anxiety and fear of penalties for being discovered criticizing the performance of the reform. It was also clear that this criticism, coming from devoted professionals of various political persuasions, was, at root, a complaint about the politicization of the reform effort created by ARENA. In general, the central problem seen by these people was the rigid ideological criteria applied before any other consideration in implementing the reform. It was consistently pointed out that ARENA had seized the reform, and had the power to remake it according to its ideas. Some found irony in the fact that, even with the extreme right in charge, land reform was still seen as a liberal, reformist, and benevolent enterprise by many Americans. The fact that the head of ISTA at the beginning of the reform, Rodolfo Viera, a peasant and peasant leader, was murdered three years ago and his killers are still unpunished, should have been seen as a significant symptom of things to come.

Since 1982, the governing board of ISTA has shown great favoritism to former owners of Phase I land. Although most properties that were expropriated in 1980 were valued according to a formula specified in the Basic Law, based on their declared tax value for the agricultural years 1976-77, many properties have

since had their values altered. This was done by claiming that capital improvements were done after 1977. Improvements include bridges, walls, and other physical projects as well as retroactive payment for cattle and machinery. Although receipts and other written proofs are required to demonstrate that such improvements have been made, the board accepts statements signed by ISTA personnel who claim that the cooperative members have stated that these improvements were done. The time for presenting the arguments about capital improvements was during the evaluation phase but cases are readily reopened. In some case the claim is made that these improvements were the property of third parties, for example, that a tractor that was part of the confiscated equipment belonged to someone not the owner. In such cases, and in the cases of some physical improvements as well, compensation, in addition to that already given is paid in cash rather than according to the formula of bonds and cash that the law stipulates. While this diverts ISTA's funds, badly needed for the development of the cooperatives, it has a far more indvidious consequence. As the cooperatives are reevaluated at a higher level, the "agrarian debt", i.e. the amount owed by the cooperative to ISTA, increases correspondingly. It suggests that the glacial slowness in titling cooperatives is due to the desire to increase their debts through such devices. It is quite possible that the difference between the original valuation and the revised one is, for a cooperative, the difference between financial solvency and default. Devices such as this were described as "sharpening the tools of the ARENA takeover" (34).

The grain purchasing board (IRA) is supposed to act as an intermediate buyer to guarantee a fair price to the producer as well as to the final consumer. On the purchasing side, its prices represents a subsidy to maintain incentives for grain production and in selling it is supposed to offer a fair price for poor consumers while discouraging hoarding and monopolistic behavior on the part of private grain dealers. After mid-1982, the directorate of IRA was replaced. There were many complaints that IRA was using its subsidy power to engage in paper transactions with grain dealers in a "merry-go-round" fashion. That is, the dealer would sell to IRA at the subsidized price and would immediately buy back at the higher subsidized, purchase price. This grain would then still available to the dealer for sale on the open market. Meanwhile IRA has shown an incapacity to regulate prices of grains and the brusque price fluctuations that affect the market have hurt small producers especially. IRA sells powdered milk obtained in the United States. The advertised cost per tin was between 15-16 colones, but there was none available at the IRA centers. In public markets, through private dealers, the same milk was selling for 50 colones or more for the same quantity.

With regard to the marketing of other products, coffee and cotton in particular, the relevant agencies that buy from the cooperatives, have been very late in crediting the cooperatives' accounts for the amount of commodities delivered. What has happened is that even after delivering coffee, say, to INCAFE, the cooperative is not paid and therefore cannot repay bank credit nor use the money earned for any of their other needs.

Instead, the money is deposited in a "restricted" account, so-called because the cooperative has limited access to the funds and they draw no interest while the outstanding debts continue to accrue interest.

Impact of Post-1982 Reform Policies

Let us examine the outcomes to date in Phase I and III of almost four years of "reform".

Phase I-Although the 317 Phase I "productive units" (cooperatives) are formally structured as cooperatives, with a board of directors, voting membership, etc. the members have discovered that they remain as dependent as they were when they were merely individual workers on the same farms. Moreover, virtually every cooperative is saddled with a debt, in reality a mortgage, that must be paid off. Most cooperatives are steadily slipping into arrears, increasing their dependency, and realizing fewer and fewer of the benefits cooperative ownership of the farms was to have brought its members.

The management of ISTA since mid-1982 has supported increases in the agrarian debt of coops, reduction of social services, late delivery of credit, and considerable corruption in administration of Phase I. Nevertheless, using the criteria of business success and managerial efficiency, it constantly criticizes Phase I as an economic failure.

Credit-During the first two years of the reform, the credit repayment record of Phase I was quite favorable. "Of all production credit extended to Phase I farms in 1980 and 1981, approximately 76 percent was repaid. This is far better than

most rural credit programs in the Third World, and BFA and commercial bank officers said it is better than the repayment record of non-reform borrowers in El Salvador" (35). (emphasis mine). This aggregate rate conceals the fact that more cooperatives (140) were delinquent after the first year than those that repaid (121). It also reflects great variation in return rates by lending agency. Nevertheless, this could have become the basis for improvement and extension of the credit system, given its general financial health and the fact that banks were nationalized in El Salvador along with the agrarian reform. A government evaluation in 1982, pointed out that because of the extreme decapitalization (selling of machinery and cattle by former owners at the beginning of the reform) if strict banking criteria were applied, most of the cooperatives would fail. It points out that although in difficult financial shape many cooperatives invested in schools, clinics and other social goods. It recommended that ways be found to refinance cooperatives and to help them beyond strictly considerations (36).

In the 1980/81 agricultural year, 92% of the Phase I productive units received credit. In the 1981/82 year, 79% got credit, reflecting in large measure the greater number of Phase I cooperatives created as the reform continued. The 81/82 production credit was overwhelmingly (88 percent) devoted to export crops (coffee, cotton, sugar) and about one-fifth for refinancing of uncollected loans from the previous year (37). For the 82/83 year 76% of the Phase I farms got credit as well, but only one-half of the production credit went to finance export crops and one-fifth was for refinancing the agrarian debt from the previous year (38).

This reflects a difference in credit needs obtained with experience of the first year. Although many farms were in arrears, measures were being taken to adapt to this new situation.

Although the financial condition of the Phase I farms is about the same as during the initial phase of the reform, prompting the government evaluation to consider the situation stabilizing, it is described as a basket case by the agency charged with its administration. One obvious aid that could be given immediately is to ensure the purchase of products through the government agencies in charge of basic grains, coffee, sugar, and cotton. Especially in the case of basic grains, since there is no foreign market, prompt purchase would be useful in helping cooperatives repay their credit quickly. For the 80/81 and 81/82 seasons the IRA bought less than one-third of its announced quota of grains from the Phase I coop and in 82/83 with no goals announced, bought an even smaller absolute amount from the farms(39). This lack of dependability has served as a disincentive to produce and as a result, acreage planted to basic grains has been reduced.

Along with raising production, the Phase I cooperatives were to be vehicles to help incorporate peasants into national life by helping them become self-reliant managers of their new farms. "Social promotion is the process whereby sectors, traditionally marginal to national development, are encouraged to incorporate themselves, with all their physical and mental potential, to a new social model that offers the opportunity for social and economic improvement"(40) To that end, so-called social

promoters (promotores sociales) were supposed to be part of each cooperative. Their tasks were quite varied, including instruction in literacy, cooperative structure, general concientización of the members to the nature of cooperative work and living. Two contracted AID reports (Checchi, Dec. 1981, Jan 1983) mention the great variation in training and background of the promoters on the cooperatives and note that there were several interesting experiments in cooperative organization. These experiments are for the most part, non-existent now.

The 1982 PERA reports state that 38% of the farms were without any promotor at all (41) and the 1983 report notes that there was an additional thirty percent reduction in the number of fulltime promoters on Phase I farms (42). It is noteworthy that the greatest reduction occurs not in the zone of conflict (III or IV) but in zone I where there is most stability and government control (43). This has led to the "low level of participation of the cooperative members in decision-making" (44).

In interviews with officers of ISTA, promoters were described as "excess baggage" or "in the way" and ridiculed for their low level of formal education. This critique reflects two important aspects of the present conduct of the reform. First, the role of social service on the cooperatives is seen as the job of experts who must teach ignorant peasants how to function in their new "businesses," i.e. a process that perpetuates the rigid distinctions dividing the work force and the management of the cooperatives. Second, the sharp disapproval of social promoters is another way of expressing antagonism for the participation of the peasant organizations that often trained and place the

promoters, notably the UCS. The present thinking in ISTA is that it is better not to have promoters on the cooperatives while waiting for better trained "experts" to appear. The training agency of the reform sector, newly incorporated into ISTA itself, offers orientation courses to bureaucrats, technicians, and coop members, on a range of topics, but social promotion has been moved to a back burner.

Co-Management-Co-management (co-gestion) of the cooperatives is specified in the original law. Article 18 of decree 153 states that, through ISTA, a link will be made between the cooperatives and the state to obtain the greatest benefit for the cooperatives. In administrative terms, the link to the state is to learn how to increase productivity and profit through available state resources (45). In educational terms, the state is to help in the training of cooperative members so they can become fully able to operate the farm without outside management, i.e. so they can move from "co-gestion" to auto-gestion" (46). The 1982 report notes little change since the beginning of the reform but does state that the general level of support for co-management people (technicians, managers, etc.) was always higher than the number of social promoters. In the 1983 report a slight increase in the number of co-managers is observed, so that only 30% of the cooperatives lack these personnel (47). The different treatment of these two kinds of help to the cooperatives is instructive. The aid that would help transform cooperatives into independent working units and perhaps groups with some social influence is being reduced. But the "experts" who actually

provide the links between the farms and the government bureaucracy are being increased and they are increasingly selected according to political loyalty to the ARENA party.

ISTA officials point out that many of the expropriated farms were very valuable and profitable operations and the peasants must learn how to be part of competently managed operations. As a result, ISTA's major efforts have gone into a program of "managerial development" (desarrollo gerencial) leading to a system of "uniform administration." New managers (gerentes) are being trained who would function at the same level as the cooperative directors (48). These new managers must be accepted by the cooperatives and their salaries will be paid on a sliding scale so that the first year the cooperative will pay 25%, the second year 50%, the third year 75% and from then 100% of their salaries. During this interim, the part of the salaries not paid by the cooperatives will come from AID funds. There are so far about 25 managers and the goal is to have 280 managers and 280 accountants in place on Phase I cooperatives by 1985 (49).

Attention to management and economic efficiency must be a part of any reform. But the corresponding reduction of the social aspects of reform suggests that the present notion of a "technical reform" that needs "perfection" reverses the explicit goals for reform as originally stated.

Insight into this point may be gained by examining the agrarian plank of the ARENA platform for the forthcoming election. After a preamble that discusses the technical consolidation of the reform, it proposes that "each campesino beneficiary of the reform be converted into a real owner of land

and at the same time act as an agricultural businessman". To that end they propose to grant individual titles to cooperative members for house and garden plots and to issue shares in the ownership of the cooperative. This would "guarantee to the campesinos the right to transfer to their children or relatives, the property of their plot and their stock in the cooperative. With this program, beside strengthening the cooperatives, we will promote the prosperity of the campesino and erase the collectivist scheme implanted by the Christian Democrats" (50)5. This is the explicit plan of the party in charge of the reform for the last two years. The Christian Democratic "scheme" they seek to overturn is nothing less than the agrarian reform itself as explicitly legislated. That hardly qualifies as "continued progress".

Phase III-Land-to-The -Tiller program arrived very precipitously into the Salvadoran environment. Designed by an American, with little real knowledge of El Salvador, (51) it was enacted so speedily, with such little preparation that it took a full year after the decree was passed before any implementation occurred. From its outset, it has been fraught with problems and under constant political attack.

Although the Minister of Agriculture's office tried to make of FINATA, the Phase III administering agency, an ideological ally, the head of the agency since mid-1982 has successfully maintained his independence from these political influences. Although the object of severe public attack, including explicit ones from within the Ministry, his status as active duty Colonel

is a considerable shield against most forms of pressure. Under his leadership, after a period of lag, FINATA has been extending the process of incorporating peasants into the program. Thus far FINATA has more than fulfilled its own goals with respect to receiving applications and issuing provisional titles.

The original goals of Phase III were twofold. First, by granting individual ownership titles to campesino beneficiaries, there was to have been a significant increase in agricultural productivity, leading to increased family income, greater consumer demand, savings, etc.; in short, takeoff into economic development. The second goal of this program was to obtain the allegiance of the mass of rural poor in support of the government anti-querrilla campaign. Here an analogy was made with a similar program (designed by the same person) carried out in Vietnam. To evaluate these claims, let us examine a) the conduct of the implementation of Phase III, b) titling and compensation problems, c) credit and extension services to beneficiaries, d) evictions, intimidation, and violence against beneficiaries, and e) change in level of welfare for beneficiaries.

Implementation-Phase III requires that potential beneficiaries initiate the process of applying for ownership of the lands they rented or sharecropped. Many have been discouraged from doing this by the owners who stated that the reform would be reversed, that they would evict the tenant if they went to the FINATA office, etc. (52). Furthermore, the process is quite cumbersome requiring twelve administrative stages by FINATA and three by the beneficiary (53).

Of the 117,000 potential Phase III beneficiaries, (54) about

60,000 have thus far applied. Phase III has been extended only through June 1984 and, in the view of AID people working on Phase III, in the remaining time they will only incorporate perhaps 10,000 more families.

Credit and Extension Services-A 1977 AID report said that, "The small farmer (under 2 ha.) is essentially without access to agricultural credit (55). The most recent evaluation of Phase III indicates that some credit is being channeled to beneficiaries of Phase III. From January to September of 1983, 7,840 credits were assigned to cover 18,899 hectares for a total value of 14,303,000 colones (\$5,721,200 at official rates) (56). While the 756.8 colones per hectare is a significant increase over traditional rates, three points must be made. First, the credit extended covers only a small fraction of lands included in Phase III, about one-tenth. Second, the average size holding being financed in this way (2.4 ha.) is considerably larger than the average size applied for (1.5 ha.), suggesting that the larger beneficiaries are receiving disproportionate attention. Third, comparing the credit/land surface ratio with Phase I credit, we see that Phase III land receives only about one-quarter the amount per hectare given to Phase I. In part, that is because Phase I credit emphasizes export crops that require greater capital inputs. However, credit should become an instrument for crop diversification in Phase III (57) in order to include a more profitable crop mix that would lead to increased family income for beneficiaries. Further, if Phase III is to succeed in the long term, support will be necessary to protect the physical integrity of the soil,

longterm financial stability of the new holdings, in short, credit can be a significant instrument for guaranteeing the permanence of this part of the reform.

In a survey done for FINATA, contracted by AID, July 1983, approximately one-third of the beneficiaries questioned responded that credit had arrived late, and that in general dealing with the bank was seen as not as good as relying on local money lenders (58). The report regards this an undesirable alternative because of the higher rates of interest charged by these people. If smallholders are to be included in the credit system, they must see the benefit of credit by having it arrive on time and at the lowest interest rates possible.

With regard to technical assistance, in 1982, 86% of beneficiaries surveyed reported that they received no assistance at all (59). Most of the remaining help was given by the BFA (agrarian bank). In a more recently done survey, 90% of those polled stated that they received no technical assistance at all (60).

Evictions, Threats, Intimidation, Violence-Even though, as in Phase I, there is legal support for taking land from its owner, more generous terms for compensation than in Phase I, the difficulties faced by the new beneficiaries are more severe than in Phase I. That is because it is always one beneficiary, with few exceptions, who must initiate the process of acquiring the land he works. Where the owners property is large in size, they usually have good relations with the local security forces, army, or police. In many cases, this knowledge is sufficient to discourage tenants from applying. In addition, there have been reports of direct threats against possible applicants, and in

some cases, the eviction of beneficiaries because they were seeking to apply, and even the eviction of beneficiaries who had already received their provisional titles (61).

The number of beneficiaries evicted from their properties depends greatly on definitions of beneficiaries, and what constitutes an eviction. The most minimal definition comes from FINATA and is, "an action by the owner that denies a campesino of possession of the land, who is covered by decree 207, and who comes to FINATA to complain" (62). FINATA lists a total of 4,976 evictions since the program began, and 3,897 reinstallations with 1,097 cases pending (63).

Writing on behalf of AIFLD, Jack Cobb uses the definition of eviction as, "those beneficiaries of decree 207 who have made application and who were expelled from their land, those evicted who had not yet made application, and those whose application status could not be determined." Further, it includes people who have renounced their rights under decree 207 (64). The following is a table comparing the FINATA and the AIFLD views on evictions.

	FINATA	AIFLD
Evictees who have applied		5,634
Complained to FINATA	4,976	
Evictees who have not applied		1,181
Evictees of indeterminate status		892
Beneficiaries who have renounced rights		1,360
Total	4,976	9,067
Reinstallations	3,897	1,271

The AIFLD report finds, using the broader definition of

eviction, a total eviction rate of 14.5%. Part of the discrepancy noted is attributed to the fact that, in their view, 57% of all evictions are never reported to FINATA. Nearly half of all evictions occur on farms with less than 5 beneficiaries, but evictions are most likely to be reported on farms with five or more beneficiaries. 68% of all evictions are caused by landowners, five times that reported for violence as a cause of eviction.

Welfare of 207 Beneficiaries-The 207 beneficiary population is characteristically quite young, i.e. with a high dependency ratio, i.e. ratio of very young and very old to economically active members, of 45.9 percent. Average family size is 6.1 members, larger than for the country as a whole. The rate of illiteracy of 50 percent is higher than the national average (33.1 percent) and also for the general rural rate (46.1 percent). Illiteracy is increasing for this population over the past five years (65). About 71% of this population have either never attended school or have less than 2 years of school attendance (66). For a family earning the average income of 1,854 colones per year, 71 percent of the diet is composed of maize and beans, or 1.05 lbs of maize per person per day and .21 lbs. of beans per person per day (67). This diet is woefully deficient in rice, eggs, cheese, milk, and meat, all foods directly involved in child nutrition. 73 percent of houses in this population lack adequate drinking water and in other respects (toilet facilities, fuel) they suffer a "considerable deficit" (68).

According to data collected by PERA through the 81/82 agricultural season, yields in the four most important crops cultivated by 207 beneficiaries (maize, beans, rice, and sorghum) are somewhat below national averages and considerably lower than yields on Phase I cooperatives (69). Of these four basic grains, more than half of what these families produce is destined for sale and, after subtracting seed requirements for the following year, the rest is consumed by the family. Rice is the one exception, where 87% is sold (70). For the smallest holdings, i.e. less than .5 manzanas (about a third of a hectare) most of family income is obtained through wages and craft activities. In slightly larger pieces of land, agricultural production accounts for 55-73% of family income and the rest through wages and crafts (71).

In sum, the typical beneficiary of decree 207 is quite similar to the description of the "rural poor" done by AID in 1977. This is after more than one year of implementation of decree 207. Family income data show the distribution of income among items such as food, clothing, health, transport, etc. (72). But, given the present level of costs for these necessities, what can the average 207 beneficiary really obtain with the income earned? Assuming total family income of 5,000 colones annually (in 1983 92% of 207 beneficiaries earned less than this (73)). For them, this income is equal to a daily amount of 2.28 colones per person to satisfy all expenses. Given further, that in 1983, the minimum diet cost 3.86 colones per day. Even assuming that in each family group of six persons there were two earners, an excessively liberal assumption, the family income would have to

be supplemented by 9,623 colones per year. At the prevailing agricultural wage (9.82 colones per day) it would still be impossible to earn enough in wages to satisfy the minimum needs of the family. Another way of saying this, is that the beneficiary population of decree 207 is as firmly entrenched in poverty, with all its attendant social problems, as in 1977. The "chain of desirable events" hoped for in the 207 program, i.e. increased family income, greater investment in agricultural inputs, increased yields, and better family nutrition (74) have not yet materialized.

Although basing an agrarian reform on the proliferation of tiny, poor plots, is by no means an ideal manner of proceeding, this reform was done for largely political reasons. As its author said in a speech in 1980 in San Salvador, "if the reforms (207) are carried out successfully here, the leftist armed movement will be effectively eliminated by the end of 1980" (75).

To evaluate Phase III as to its continued progress, two points much be made. First, the present administration of FINATA has carried out its charge with considerable energy, intelligence, and honesty. Eighteen months ago, FINATA's performance was falling far short of its own goals. Now it is right on schedule as far as the process of application receiving, and titling. Second, the development phase, i.e support of the beneficiaries with credit, extension, marketing, etc. is not being carried out in a way that is bringing any real benefits to the campesinos. The 1977 assessment of the rural poor complained about the same issues. That merely highlights the

fact that simple land distribution is perhaps one necessary step, but it is a long way from sufficient. At present, there seems to be little political will to punish those who intimidate 207 beneficiaries, to facilitate credit and help in the diversification of agriculture so as to really increase family income, and to encourage political organization among the campesinos so as to generate political mobilization from below. Instead, with titles in hand, or on the way, these campesinos must still be part of the large, impoverished work force that seeks employment on the larger farms that grow export crops. In some cases, in the present environment, these 207 beneficiaries must deal with the new peasant cooperative owners of large estates for the same substandard wages they have always received. Progress in registering numbers in columns is by no means the same as progress in "establishing a new economic and social order, in accordance with principles of social justice..."(76). That is the only significant goal. Its accomplishment is not only a moral duty, but it is the key to the solution of the terrible conflict in El Salvador. Unfortunately, the agrarian reform as presently functioning is not showing continued progress toward this end.

Bibliography and Notes

1. Direccion General de Estadistica y Censos, Third National Agrarian Census, 1971, San Salvador.
2. Daines, Samuel, Analysis of Small Farms and Rural Poverty in El Salvador, prepared for AID Mission to El Salvador (San Salvador, 1977), p.20.
3. Burke, Melvin, "El sistema de plantacion y la proletarianizacion del trabajo agricola en El Salvador", Estudios Centroamericanos, 1976, pp. 473-86, San Salvador, p.476.
4. Deere, Carmen Diana and Martin Diskin, "Rural Poverty in El Salvador; Dimensions, Trends and Causes". Prepared for research project, "Rural Poverty in Central America:Dimensions and Causes," for Rural Employment Policies Branch, International Labour Office, (Geneva, 1983).
5. Dunkerley, James, The Long War: Dictatorship and Revolution in El Salvador (Verso: London, 1983), p. 65.
6. Checchi and Co., Agrarian REform in El Salvador. Prepared for AID (Washington, 1983), p.171;MAG-OSPA-PERA, Doc. 1-01/83, "Beneficiarios Potenciales del Decreto 207" (San Salvador, March 1983) p. 6; DGEC, Third National Agrarian Census, 1971.
7. Prosterman, Roy, Congressional Testimony, Subcommittee on Inter-American Affairs, House Committee on Foreign Affairs, August 3, 1982, p. 2.
8. MAG-OSPA-PERA, DOC. 1-04/83, "Tercera Evaluacion del Proceso de la Reforma Agraria" San Salvador, Oct. 1983), p. 4.
9. U.S. Embassy, El Salvador Agrarian Reform Monthly Report, No. 29 (San Salvador November 29, 1983).

10. United States, Department of State, "Report on the Situation in El Salvador" (Washington, Jan. 16, 1984), p. 37.
11. El Tiempo, August 26, 1983 (San Salvador), pp.9-13.
12. *ibid.*
13. UPD declaration, December 16, 1983 (El Salvador).
14. Armed Forces Declaration, October 15, 1979, pt. III, (San Salvador).
15. Decree 153, Art. 2, March 5, 1980, (San Salvador).
16. U.S. State Dept., "Report on Status of Land Reform in El Salvador", (Washington, January 25, 1984).
17. 1983 Political Constitution of El Salvador. Published in *Diario Oficial*, vol. 281, no. 234 (San Salvador, December 16, 1983).
18. *ibid.*
19. *ibid.*
20. *ibid.*
21. *ibid.*
22. *ibid.*
23. *El Diario de Hoy* (San Salvador, January 6, 1984).
24. Embassy Agrarian Reform Report No. 29, *op. cit.*
25. *ibid.*
26. USAID/EL SALVADOR, "Agrarian Reform in El Salvador; Process and Progress" (San Salvador, November 1983). p. 13.
27. *ibid.* p. 14
28. Embassy Agrarian Reform Report No. 29, *op. cit.*
29. Interview with UPD leader, Jan. 1984.
30. MAG-OSPA, "Diagnostico del Sistema Agropecuario, 1978-1983".

(San Salvador, January 1984).

31. Checchi and Co. op. cit., p. 171, exhibit 8-1.

32. Decree 153, par. 3, preamble.

33. USAID/EL SALVADOR, "Agrarian Reform in El Salvador..." op. cit. pp. 7-8.

34. Interviews with present and past ISTA officials.

35. Checchi and Co. op. cit., p. 84.

36. MAG-OSPA-PERA Doc. 1-05, "Evaluacion del Proceso de Reforma Agraria (Marzo de 1980 a Abril de 1982)", (San Salvador, May 1982).

37. ibid. p. 62

38. MAG-OSPA-PERA, Doc. 1-04/83, op. cit. pp. 35-38.

39. MAG-OSPA-PERA Doc. 1-05, 1982, op. cit., pp.37-40.

40. ibid., p. 87.

41. ibid., p. 88.

42. MAG-OSPA-PERA, Doc.1-04/83, op. cit., pp.63-4.

43. ibid., p. 63.

44. ibid., p. 64.

45. MAG-OSPA-PERA, Doc. 1-05, 1982, op. cit., p. 90.

46. ibid., p. 91.

47. MAG-OSPA-PERA, Doc. 1-04/83, op. cit., p. 65-66.

48. Checchi 1983, op. cit. appendix B, pp. 216-221.

49. Interviews, ISTA, January 1984.

50. El Diario de Hoy, (San Salvador, January 7, 1984).

51. It was described to me as the only piece of Salvadoran legislation that had to be translated into Spanish.

52. Union Comunal Salvadorena, "El Salvador Land Reform Update: Land to the Tiller Program" (El Salvador, 1981).

53. Diskin, Martin in "El Salvador Land Reform Impact Audit, Simon, L. Stephens J.C., and Martin Diskin (Boston, 1982) p. 35.
54. MAG-OSPA-PERA, Doc. 1-01/83, "Beneficiarios Potenciales del Decreto 207." (San Salvador, March 1983) p. 5.
55. Daines 1977, op. cit.
56. MAG-OSPA-PERA, Doc. 1-04/83, op. cit. 1983, pp. 49-50.
57. Daines 1977, op. cit. pp. 8-11, 19-21.
58. Castellanos Ces Campos y Cia., Auditores y Consultores, "Reporte de Observaciones y Recomendaciones Sobre el Control del Programa", (San Salvador, July 1983), pp. 15-19.
59. MAG-OSPA-PERA, Doc. 1-14/82, "Perfil de beneficiarios del Decreto 207". (San Salvador, December, 1982), p. 39.
60. Castellanos, 1983, op. cit., p. 33.
61. *ibid.*, p. 24.
62. FINATA, 1983 (no title) (San Salvador), pp. 25-6.
63. *ibid.*
64. Cobb, Jack, "Survey of Illegal Evictions of Beneficiaries of the Decree 207 Agrarian Reform Program: 1980-1983". ms. (San Salvador, September, 1983).
65. MAG-OSPA-PERA, Doc. 1-14/82, op. cit., pp. 1-3.
66. *ibid.*
67. *ibid.*, p. 7.
68. *ibid.* p. 12.
69. *ibid.*, p. 17.
70. *ibid.*, p. 18.
71. *ibid.* p. 31.
72. *ibid.*, p. 34.

73. Universidad Centroamericana, Documento de Trabajo, Boletín de Ciencias Economicas y Sociales, No. 5/10/83-030, "La Fase III de la Reforma Agraria y Las Condiciones de Vida de sus Beneficiarios", 26 pp. (San Salvador, 1983) p. 22.
74. USAID/EL SALVADOR, November 1983, op. cit., p. 33.
75. El Salvador News-Gazette, May 5, 1980.
76. decree 153, par. 3.

Mr. BARNES. Thank you, Mr. Diskin.
Mr. Neier, welcome.

STATEMENT OF ARYEH NEIER, VICE CHAIRMAN, AMERICAS WATCH

Mr. NEIER. Thank you very much, Mr. Chairman.

As you said, I am submitting my statement for the record and will try to summarize it fairly briefly.

I would also like to submit for the record a report we published on the human rights situation in El Salvador during the past 6 months. This is the fifth such report that we have published. We titled the report "As Bad As Ever," because that is the way we found the situation in El Salvador.

POLITICAL MURDERS: 100 A WEEK

The human rights monitoring office of the Roman Catholic Archdiocese of El Salvador tabulated some 2,615 political murders committed by the Salvadoran Armed Forces and paramilitary force allied to them during the last 6 months of 1983, just over 100 a week. That is up somewhat from the 2,527 such murders during the previous 6 months and up somewhat more from the 2,340 such murders during the last 6 months of 1982. All told, the human rights groups that are affiliated with the archdiocese have tabulated more than 38,000 such murders since 1979.

There are many other human rights violations that go forward in El Salvador, a percentage decline somewhat during the past 6 months, but the number of political prisoners rose sharply.

The prisoners who do make it to prison are considered the lucky ones. They are not all that lucky, however. All of the male political prisoners say that they have been tortured. All or virtually all of the female political prisoners say that they have been raped. The cadavers that are found of people who are murdered very frequently show signs of torture.

The United States has significantly stepped up its pressure on the Government of El Salvador to reduce human rights violations. Unfortunately in our view, that pressure is not working, and we think the reasons it is not working are fairly important, and if I may mention them just very briefly.

U.S. LACKS CREDIBILITY

First, we think that the United States lacks credibility in El Salvador. A few months of stepped up pressure after a period in which the United States attempted to explain away human rights violations are not enough to establish credibility.

Moreover, virtually in the same breath that the United States has denounced human rights violations, it has called for additional military aid to those responsible for those violations, and therefore we think that it may be quite a long time before the United States can establish credibility in trying to end those violations.

LACK OF CONSISTENCY

Second, there has been the problem of lack of consistency. We were very pleased by the strong statements that Ambassador Thomas Pickering has made about human rights violations in El Salvador. We were pleased by the statements that Vice President Bush made when he visited on December 11.

Yet virtually at the same moment, President Reagan was saying here in Washington he suspected that the human rights violations committed by the death squads were actually the work of the far left, dressing up as the death squads and therefore trying to have those abuses blamed on the right, and there were other unfortunate statements by administration officials which seemed to us to undercut what the U.S. Embassy was saying in San Salvador and what Vice President Bush said during the course of his visit.

MAJOR PORTION OF THE DEATH TOLL IS FROM REGULAR ARMED FORCES

Third, in its public statements at least, the Reagan administration has focused entirely on what it calls the abuses committed by the violent right and the violent left. Certainly the violent right and the violent left commit severe abuses of human rights in El Salvador, but they do not account for the major part of the death toll.

The major part of the death toll is the responsibility of the regular armed forces of El Salvador, and those violations are very often committed in what are ostensibly regular military operations.

The Salvadoran Armed Forces tend to regard any person who is in a guerrilla controlled zone of the country or in a conflict zone as a military target, and they certainly do not maintain their responsibility under international law to protect those persons taking no active part in hostilities. That is the main part of the human rights problem in El Salvador. That isn't something that can be solved by focusing on the death squads or on guerrilla violations.

NOT A HANDFUL OF GUILTY PERSONS

Fourth, the activities, or those responsible for severe human rights violations are not a handful of persons, and therefore the problem cannot be solved simply by sending a handful of people out of the country as military attaches or by transferring a handful of people to other posts.

ATMOSPHERE OF TERROR

Fifth, and in some ways this seems to us the most important of all, we believe that the fact that the number of killings continues at such a high rate after so many people have been killed tells us that the Salvadoran Armed Forces feel they need to continue committing those violations of human rights. Apparently the reason they need to do this is they need to maintain an atmosphere of terror. It is through terror apparently that they maintain their authority.

Let me come back for a moment to the question of the tactics and practices of the armed forces in the course of what are ostensibly military operations. The Reagan administration discussed one such episode in the course of its recent report, and used the episode as an example of what it called a false allegation, or of what it described as a false allegation of such tactics by the armed forces.

The episode was one which took place at Copapayo, and there had been reports that a rather large number of people were massacred. We don't know what took place at Copapayo. The evidence is not altogether clear, but some light is shed on what took place at that particular place because of what happened right afterward.

Several journalists went to the place to try to look into what took place. They went there by crossing Lake Suchuclan in a boat. They examined the scene and then they wrote stories, some of them suggesting that a massacre had taken place, some of them suggesting that it wasn't all that clear that a massacre had taken place.

Right after the journalists went back to San Salvador, something happened to the boatman who took them across the lake. Six men in uniform came to the boatman's home. His wife reports that they told him that it was a mistake on his part to cooperate with the journalists. He was taken away. The next day his 12-year-old son found his body. He had four bullet wounds in his head. His fingernails had been pulled out and his ear had been cut off. I think that tells us something about the way in which the Salvadoran Armed Forces are conducting this particular war.

In our view, the Salvadoran Armed Forces are engaged in a consistent pattern of gross violations of internationally recognized human rights. U.S. law prohibits us from giving military aid to those who are engaged in such practices.

NO PUNISHMENT OF ABUSES BY MILITARY

We think that it is more than abundantly clear. We think the clarity of it is perhaps demonstrated most of all by the fact that there is yet to be a single member of the regular armed forces of El Salvador who has been tried and criminally punished for human rights violations, now after some 38,000 politically motivated murders, have been killed by those forces and paramilitary forces allied to them over a 5-year period. Under those circumstances, we believe that continued U.S. military assistance to the Government and Armed Forces of El Salvador violates U.S. law.

Thank you.

Mr. BARNES. Thank you, Mr. Neier.

[Mr. Neier's prepared statement follows:]

PREPARED STATEMENT OF ARYEH NEIER FOR THE AMERICAS WATCH

My name is Aryeh Neier. I am Vice Chairman of the Americas Watch, Vice Chairman of the Helsinki Watch, and Adjunct Professor of Law at New York University. I appear here today on behalf of the Americas Watch.

In my testimony today, I want to address three issues. First, I will discuss the findings of the Americas Watch on the character and frequency of human rights violations in El Salvador during the last half of 1983. Second, I will present our views as to the reasons for the failure of the United States to reduce significantly the level of human rights violations. Third, I will discuss one kind of human rights violation that has received relatively little attention: the deliberate killing of non-combatant civilians in the course of what are ostensibly military operations.

As to the character and frequency of human rights violations, we found that things are as bad as ever in El Salvador. The human rights monitoring office of the Roman Catholic Archdiocese of San Salvador tabulated 2,615 political murders of civilian noncombatants by the Salvadoran armed forces and paramilitary forces allied to them during the last six months of 1983, up somewhat from the 2,527 such murders it tabulated during the first six months of 1983 and up somewhat more from the 2,340 such murders that it tabulated during the last six months of 1982. All told, human rights groups affiliated with the Archdiocese have tabulated more than 38,000 such murders since 1979.

With respect to other human rights violations, the Archdiocese found that the number of disappearances has decreased somewhat; the number of political prisoners is up sharply; torture is still inflicted on every surviving prisoner and the condition of cadavers shows that it is routinely used on those who are killed; virtually all female prisoners are raped.

We have assembled the depressing data and discussed it at greater length in a report that we published this week, entitled: "As Bad as Ever: A Report on Human Rights in El Salvador." This is the fourth supplement to a report that we published two years ago. (Copies of the report are being made available to this Committee and I hope you will use as much of it as you see fit in the record of this hearing.)

Reviewing the data that we have assembled, it seems plain to us that talk of improvement in the human rights situation is without merit.

As to the reasons for the failure of the United States to secure improvements given the enormous amount of aid we provide to the Salvadoran government and to its armed forces, and their dependence on the United States, it seems to us that there are several interrelated reasons.

First, the U. S. lacks credibility. The Reagan Administration has made it plain over the last three years that it is unshakably committed to support of the Salvadoran armed forces. Over that period, it has often served as the apologist for Salvadoran abuses of human rights, attempting to defend or to explain away even the most indefensible abuses. Under the circumstances, two or three months of stepped-up pressure to end human rights abuses are not sufficient to persuade the Salvadoran military that the U. S. means to make good on any threats that may have been made. Moreover, the U. S. appears reluctant, now as before, to allow human rights to interfere with other important U.S. objectives, especially the successful prosecution of the war against the guerrillas.

Second, during this period of heightened pressure, U.S. signals have been mixed. Ambassador Thomas Pickering has spoken out forcefully on human rights as did Vice President George Bush in his December 11 visit to San Salvador. During this same period, however, Under Secretary of Defense Fred Ikle, Assistant Secretary of State Elliott Abrams and the

President himself made public statements suggesting that the left in El Salvador was actually to blame for the work of the death squads. In addition, there was the "pocket veto" of the law regarding compliance with human rights and other conditions as a prerequisite for continued military aid, and the President and his spokespersons repeatedly called for increased military aid to El Salvador.

Third, at least in their public statements, Reagan Administration officials focussed entirely on "right-wing death squads" and the guerrillas as the perpetrators of human rights violations in El Salvador. Certainly these groups commit serious abuses but those violations take a relatively small part of the toll in the lives of civilian non-combatants. The great majority of political murders are committed by the regular security forces and the Army as part of their regular operations. Some of the killings by the regular security forces are more or less selective, as when people are pulled from houses and summarily executed. Others are indiscriminate, as when the armed forces engage in free-fire against civilians in conflict zones and in guerrilla controlled areas of the country.

Fourth, the death squads do not involve only a handful of persons and the problem cannot be solved by sending a few persons out of the country as military attaches and by transferring a few persons to different military posts. The leadership of the death squads and the leadership of the security forces are too closely intertwined. Until those

responsible for gross human rights abuses -- that is mass murders and mass torture -- are criminally punished, there is very little prospect that such abuses will end or will be reduced dramatically. To the best of our knowledge, no member of the Salvadoran armed forces has been criminally punished for a human rights violation in the past five years. We are aware of one case in 1983 in which a civil defenseman was convicted of the murder of a seminarian. See The New York Times, August 25, 1983 for Associated Press account of the conviction of Jose Mario Solorzano, commander of the civil defense squad in Verapaz, San Vicente.

Fifth, and perhaps most important, gross abuses of human rights are not incidental to the way the armed forces of El Salvador conduct their war against the guerrillas. In our view, the principal reason that those abuses continue at such a high rate at a point when -- one would guess -- the armed forces should have run out of politically suspect persons to murder is that the murders instill terror. Terror is the means whereby the armed forces maintain their authority. Accordingly, there can be no let-up in the political murders, as far as the armed forces are concerned, because this would cause their authority to slip away.

Let me turn now to the deliberate killing of non-combatant civilians in the course of what are ostensibly military operations. This problem has received far less attention than the problem of death squads, but it presently accounts for an increasingly large portion of the death toll

in El Salvador. Such killings are divisible into two types.

First, there are episodes in which the Salvadoran armed forces occupy an area and round up the inhabitants or pull them from their homes and execute them. One such incident may have taken place at Copapayo, about 45 miles northeast of San Salvador, in mid-November. According to a statement by the Salvadoran army (published by the Salvadoran newspaper El Diario de Hoy and quoted in the U. S. Department of Commerce's Foreign Broadcast Information Service of November 21, 1983) "the discovery of 20 bodies [inside a house] and testimony obtained by international newsmen about the existence of dozens more at the bottom of Lake Suchitlan confirm rebel losses inflicted by Army units during a military operation."

Though exactly what took place at Copapayo is difficult to reconstruct, as is frequently the case after supposed military operations, some light is shed on it by an incident that took place in its aftermath. Several journalists travelled to Copapayo to view the scene. To get there, they had to cross Lake Suchitlan by boat. On November 28, the boatman who ferried them across the lake, 45-year-old Santiago Vitelio Alas was taken from his home by six armed men in military garb. His wife says they told him it was a mistake to cooperate with journalists. The next day, his 12-year-old son found his father's body at the edge of town with four bullet wounds in the head. Some of Vitelio's fingernails had been pulled out and an ear had been cut off.

Second, there are episodes in which the Salvadoran armed forces deliberately engage in aerial attacks on the civilian population in conflict zones of the country or in zones of the country that are controlled by the guerrillas. One such incident took place at Tenancingo following a September 25, 1983 confrontation between the armed forces and the guerrillas. The following account was pieced together from survivors' testimony by a representative of the human rights monitoring office of the Roman Catholic Archdiocese who visited Tenancingo along with a German bishop and a Swiss government minister:

...the problem began at 7:00 a.m. when a plane arrived and began to bomb the town; the first bombs fell on the houses where people had taken shelter from the shooting in the streets. This is how the civilian population began to die.

Then they decided to begin to evacuate Tenancingo, for the horror of dying in their homes because of the bombing. At 8:00 a.m. the soldiers gave up, but not Captain Tomas Antonio Calvo Alfaro, who entrenched himself in one of the houses and ordered the bombing to continue.

About 8:00 a.m. that same day a plane flew over a large group of civilians preparing to leave Tenancingo for Cojutepeque. Two relief workers from the Green Cross who were going with this group of people began to wave the flag of the Green Cross, signalling that these were civilians. But the plane didn't pay attention and dropped a bomb in the middle of everyone, killing 35 people instantly...The people continued evacuating the town and the plane continued dropping bombs, destroying houses...Deaths of the civilian population rose to about 75 due to the bombs that fell on the houses...*

* Tutela Legal, Testimonio N° 17, septiembre de 1983, p. 26.

Under the "Geneva Convention of 1949 Relative to the Protection of Civilian Persons in time of War" which applies, among other things, to "the case of an armed conflict not of an international character," all "persons taking no active part in the hostilities" are required to be protected. El Salvador is a signatory to the Geneva Conventions which, we believe, apply to the present conflict. Accordingly, deliberate attacks on the civilian population in conflict zones and in guerrilla controlled zones constitute war crimes.

We are aware, of course, that in any such war, some persons are killed in crossfire. We are also aware that it is not always easy to distinguish guerrillas from civilians, and that some civilians actively aid the guerrilla cause, and the extent to which civilians participate in hostilities may be difficult to determine. These difficulties do not excuse, however, deliberate attacks on what the Salvadoran armed forces know to be civilian populations. The death tolls are too high to warrant attempts to suggest, as the State Department has done, that those being killed are guerrillas or persons caught in crossfire. If these statements were true, every guerrilla in El Salvador would have been killed several times over.

In the course of a visit I paid to El Salvador in January, I spoke with a principal officer of a highly respected international humanitarian relief agency. He described to me bombing attacks on displaced persons, virtually all of them women and children. When I asked whether there were any

military targets nearby, his response was that "the Salvadoran armed forces consider any civilian to be a military target in conflict zones." (Regrettably, I cannot cite the source of this statement because to do so would compromise the ability of the agency that employs him to work in El Salvador.)

On May 20, 1983, the U. S. Department of State issued a statement denouncing the Soviet Union for bombing raids that had produced a great many civilian casualties in Afghanistan. The State Department said that "such a massive and ruthless assault on people who are, for the most part, without any means of defending themselves is intolerable by any standards of civilized behavior." The statement went on to say that, "we cannot stand silently by and witness this slaughter."*

There are differences between Afghanistan and El Salvador that include the fact that, in Afghanistan, it is Soviet pilots who are bombing Afghan civilians while in El Salvador it is Salvadoran pilots bombing Salvadorans. Even so, the bombing in El Salvador is taking place in U. S. supplied planes by U.S. trained pilots. In both places, the great majority of the victims appear to be civilians without any means of defending themselves.

* "U.S. Says Soviet Bombs Civilians in Afghanistan," Bernard Gwertzman, The New York Times, May 21, 1983.

In the words of the Department of State, are we going to "stand silently by and witness this slaughter."

In the view of the Americas Watch, the continuing human rights abuses in El Salvador are so severe that it is not sufficient for Congress to adopt a new certification requirement. For one thing, that would invite the Reagan Administration to deal with certification as it did on four previous occasions when it certified compliance with human rights conditions against all evidence. In our view, continued military aid to El Salvador violates Section 502B of the Foreign Assistance Act which prohibits security assistance "to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights." We call on Congress to see to the enforcement of the law by cutting off all military aid to El Salvador until such time as the government of that country has ended its continuing and consistent pattern of gross abuses of internationally recognized human rights.

Mr. BARNES. Mr. Posner, welcome.

STATEMENT OF MICHAEL POSNER, LAWYERS COMMITTEE FOR INTERNATIONAL HUMAN RIGHTS

Mr. POSNER. Thank you. I also have a written statement which I would like to submit to the record. In addition, I would like to submit a brief chronology of the investigation and prosecution of the churchwomen's case, and a summary of that case and those of six other U.S. citizens who have been killed in El Salvador since December 1980.

For more than 3 years the Lawyers Committee for International Human Rights has served as legal counsel to the families of the four U.S. churchwomen that were killed in El Salvador in December of 1980. My comments today reflect the families' continuing frustrations about the failure to prosecute that case, and also a series of broader issues relating to the general breakdown in the rule of law in El Salvador.

CASE OF MURDERED CHURCHWOMEN

With regard to the churchwomen's case, I want to say just one thing. Since 1980, there have been a series of highly optimistic promises of progress from both officials of the Governments of the United States and El Salvador, optimistic promises about further investigation and about a successful prosecution. All of those projections, all of those promises have been wrong, and we believe they will continue to be wrong.

The case suffers from the pervasive paralysis that cripples El Salvador's system of justice. In its statement last month, its report on the situation in El Salvador, the Department of State acknowledged this collapse in the administration of the criminal justice system.

The report concluded that Salvadoran Government authorities have no concrete ability to conduct sophisticated criminal investigations, that they rely on confessions obtained under what are called questionable circumstances; a less polite way of saying that it might be that they often torture people who are in detention.

A third point the State Department makes is that there is a failure to assure due process rights to detainees; and finally, they note that judicial authorities in El Salvador are intimidated by members of the armed forces, a pattern that the State Department calls subtle and pervasive.

In his testimony here 2 weeks ago, the Deputy Assistant Secretary of State, James Michel, emphasized what the State Department believes are a series of positive developments, including that a new judicial reform study commission, a new budgetary process for the fiscal general's office, and a new process for appointing judges. These reforms he suggested are designed to make the system work better.

THE HEART OF THE PROBLEM IS SALVADORAN MILITARY FORCES

Secretary Michael's comments miss the mark. None of these reforms go to the heart of the problem, which stems from the fact that the Salvadoran military forces effectively control the Govern-

ment, including a terrorized judiciary, and are simply unwilling to end the reign of terror that has claimed the lives of more than 38,000 noncombatants since 1979.

As this committee and Congress look to a massive request for supplemental military aid, we believe that it is time to examine the way in which the debate about human rights has been framed. In the past 2 years, certification proceedings have forced an all or nothing choice; either the U.S. acknowledges the human rights situations as a disaster and cuts overall aid, or it ignores the rampant abuses to accommodate perceived national security interests. We believe that this formulation poses an unnecessary conflict between security and human rights, and that in fact a much stronger policy on human rights is essential to long-term U.S. security interests.

Last fall, for the first time, a middle ground was proposed in the debate by Senator Specter. In an amendment he introduced to the continuing resolution, 30 percent of military aid to El Salvador was withheld pending a verdict in the churchwomen's case. While his approach doesn't fully resolve the tension between national security and human rights, it does for the first time put a tangible price tag on the continuing abuses.

In the coming months, Congress and this committee in particular should work to develop other similar concrete tests of human rights progress which are realistic, tangible, and unambiguous. In this regard Congress can, and I believe should, take a lead from the Vice President.

INITIATIVES BY THE VICE PRESIDENT

During his visit to El Salvador in December, he pressed for several measures that deserve particular attention. The Vice President looked at the death squads, and according to at least some reports, he presented Salvadoran authorities with the names of approximately two dozen people who are believed to be implicated in death-squad activities. To date, none of those people have been disciplined, and only a handful, perhaps two or three, have been transferred out of the country.

We believe that Congress should obtain the names of those two dozen people, and consider making a portion of future U.S. aid contingent on a proper handling of these cases, through disciplinary measures, and criminal prosecutions.

The Vice President also looked at arrests and detention procedures. In response to his visit, the Salvadoran Minister of Justice announced new detention guidelines or a new decree on December 14. It requires security forces to be in uniform when they make arrests, detention of prisoners in recognized places of detention, the elimination of the use of torture, and a report of arrests immediately to family members and others.

Compliance with this order should also be considered one of the conditions for further U.S. aid, and I say compliance. It is a Salvadoran practice, I think, one at which they are now very good at issuing decrees, setting up commissions. Complying with the law seems to be another and much more difficult thing to accomplish.

CONDITIONS ON FURTHER AID

In my testimony, in my written testimony, I also note several other points that were not touched on by the Vice President. One would be the creation of a Federal agency to investigate political killings. There is currently no centralized ministry of justice in El Salvador capable of properly investigating or prosecuting crimes committed by the armed forces, even if there were the will to do so.

Another possible condition of some portion of future aid would be the creation of a strong independent Federal investigative agency that is controlled by the civilian government, and it has jurisdiction over cases where members of the military are accused of crimes against civilians.

A fourth point would be the establishment of a central military prosecutor. There are separate problems in prosecuting strictly military crimes and infractions of disciplinary rules within the armed forces. These could be addressed, at least in part, by the creation of a central military prosecutor. The creation of such an office, however, is no substitute for the establishment of a civilian ministry of justice with clear jurisdiction over members of the military in cases where the victims of military abuse are civilians.

Fifth, I believe there needs to be special measures taken to protect human rights monitors and refugee workers who have been singled out for particularly harsh treatment in recent years.

Sixth, I note four individual cases, the churchwomen's case which also, as I mentioned, is the subject of Senator Specter's amendment. I think that needs to be applied and enforced with regard to the supplemental appropriation.

The AIFLD case where evidence, clear evidence exists against not only Captain Avila and Lt. Lopez Sibrian, but two private citizens, Ricardo Sol Meza and Hans Christ; successful prosecution of all four of those individuals should be a condition. And with regard to the killing of Lieutenant Commander Schaufelberger, the Deputy Commander of the U.S. military assistance group. You may recall he was killed in May.

In August a Salvadoran student, Daniel Alvarado, was arrested by the Treasury Police. They brought him before a press conference and said that he had confessed to the crime. In November the U.S. Embassy in San Salvador noted having investigated the case itself, that Mr. Alvarado in fact was not involved in the crime, that his confession was obtained under duress, and promised that the Salvadoran Government was now investigating who was responsible for his alleged torture. In fact, Mr. Alvarado is still in detention, reportedly still in detention of the Treasury Police, and nothing has been done to investigate that case. I believe that could be another condition of further aid.

The fourth case I note is that of Archbishop Oscar Romero. To date no formal proceedings have been undertaken against anyone for this murder, which occurred on March 1980. A full investigation and prosecution of this case should also be made a criterion of progress.

Finally, as we have noted in the past, in recent years a lack of will to improve the country's gruesome human rights situation has been at the heart of the problem. Judged by any reasonable stand-

ard, El Salvador has not made progress in this regard, and the situation is unlikely to change unless real pressure is applied.

To the military governors of El Salvador, the withholding of aid constitutes the only real pressure, and while recent pronouncements by the Vice President, the Secretary of State and others are an important first step, unless specific conditions making with withholding of financial aid a real possibility come into effect, these words will lose meaning.

Mr. Chairman, I think the time to act on these points is now. Thank you.

[Mr. Posner's prepared statement follows:]

PREPARED STATEMENT OF MICHAEL H. POSNER, THE LAWYERS COMMITTEE FOR
INTERNATIONAL HUMAN RIGHTS

Mr. Chairman, thank you for inviting me to testify. My name is Michael Posner. I am the Executive Director of the Lawyers Committee for International Human Rights in New York. For more than three years the Lawyers Committee has served as legal counsel to the families of the four U.S. churchwomen who were murdered in El Salvador in December 1980. My comments today reflect the families' continuing concern about the failure to prosecute that case, and a series of broader concerns which that failure raises about the general breakdown in the rule of law in El Salvador. I will also outline several areas where Congress should focus particular attention as it considers future requests for military aid.

In its January 16, 1984 Report on the Situation in El Salvador, the State Department predicted that a trial and verdict in the churchwomen's case would occur this spring. Experience has made us wary of such predictions. Since January 1982, officials of both the governments of the United States and El Salvador have made a series of highly optimistic estimates of a trial date in the churchwomen's case. All have proven wrong.

"On January 26, 1982, two days before the first U.S. Presidential Certification on El Salvador, Salvadoran Defense Minister Garcia announced that five guardsmen detained for the murders would go to trial 'within a very few days.'

"In the spring of 1982, a delegation of U.S. congressional representatives visiting El Salvador were told that 'the trial would go forward by the end of June [1982].'

"In its July 27, 1982 certification report, the State Department predicted 'we expect the date of the trial to be set this fall.'

"By October 1982 the State Department revised its prediction to November 1982.

"In December 1982 the U.S. Embassy in El Salvador reported 'Salvadoran legal experts believe the case will go before a jury in late January or early February 1983.'

"The third certification on January 21, 1983 made no further predictions but referred to 'significant developments in the investigation and prosecution of the case.'

"The fourth certification, on July 20, 1983, stated 'we are hopeful that the case will go to trial within the next few weeks.'"

And so on.

While the ever-expanding list of unduly optimistic predictions is, in itself, a reason for doubt, our skepticism is not based on this history alone. Last month a delegation representing the Lawyers Committee visited El Salvador for the fifth time in 18 months to inquire into the status of the case. We found, as we have in the past, that much remains to be done before a successful prosecution will take place.

This comes as no surprise, for the case has long suffered from the pervasive paralysis that cripples El Salvador's system of justice. Today, despite repeated public and private expressions of concern from the U.S. Government and others, Salvadoran authorities remain unwilling to bring members of the armed forces to justice, even in cases, like that of the churchwomen, that have assumed a symbolic importance.

In its January 16, 1984 Report on the Situation in El Salvador, the State Department acknowledges "the effective collapse of the administration of criminal justice in cases with political overtones." The report concludes that Salvadoran government authorities: (1) have "no effective ability" to conduct sophisticated criminal investigations; (2) rely on confessions obtained under "questionable circumstances"; (3) fail to assure due process to detainees under decree 507; and (4) are intimidated by members of the armed forces, a pattern called "subtle and pervasive."

In testimony before this Committee last week, Deputy Assistant Secretary of State James Michel emphasized a series of positive developments in this area, including the creation of a National Commission on the Judiciary, a new budgetary process for the Fiscal General's office, and a new appointment process for judges. These reforms, he suggested, are designed to "make the system work better."

Secretary Michel's comments miss the mark. None of the recently announced "reforms" go to the heart of the problem, which stems from the fact that Salvadoran military forces effectively control the government—including a terrorized judiciary—and simply are unwilling to end the reign of terror that has claimed the lives of more than 38,000 non-combatants since 1979.

The human rights situation is complex, and poses very difficult choices for members of Congress who seek to end the abuses without abandoning a strategic ally. In coming weeks Congress must seek new and more practical means of evaluating and having some impact on El Salvador's sorry performance on human rights, as it considers the Administration's anticipated request for massive increases in supplemental military aid to El Salvador. In the past two years the debate on human rights in El Salvador has revolved around the certification process which forces an all-or-nothing choice—either the United States acknowledges that the human rights situation is a disaster and cuts off all aid, or it ignores rampant abuses to accommodate national security interests. We believe that this formulation poses an unnecessary conflict between security and human rights concerns and that a much stronger policy on human rights is in fact essential to long-term U.S. security interests. Past experience leaves little doubt that, faced with the existing choice, most members of Congress will vote for a continuation of both military and economic aid to El Salvador, doing a short-term disservice to human rights and long-term damage to security interests.

Last fall, for the first time, a middle ground in this debate was proposed in legislation introduced by Senator Arlen Specter. Incorporated into the continuing resolution that was passed by the Congress in November, Senator Specter's amendment required the withholding of 30% of U.S. military assistance to El Salvador until a verdict is obtained in the churchwomen's case, and an additional 10% until certain steps are taken with regard to the land reform program. While Senator Specter's approach does not fully resolve the tension between national security and human rights, it does, for the first time, put a tangible price-tag on the continuing abuses. While the churchwomen's case remains bogged down in a seemingly endless web of procedural delays, Senator Specter's amendment has raised more than a few eyebrows in military circles in El Salvador, and has resulted in some tangible steps being taken.

In the coming months Congress, and this Committee in particular, should work to develop other similarly concrete tests of human rights progress which are realistic, tangible and unambiguous. In this regard, Congress can take its lead from Vice-President George Bush. During his visit to El Salvador in December, the Vice-President pressed for several measures that deserve particular attention:

THE DEATH SQUADS

While visiting El Salvador, the Vice-President was particularly outspoken in his denunciation of "cowardly death-squad terrorists." He emphasized that "we all agree that the death squad murders must stop. They are threatening the democratic government in El Salvador by undermining the rule of law and eroding support for the Salvadoran Government and our own country." According to some news reports, Mr. Bush presented Salvadoran authorities with the names of approximately two dozen people believed to be implicated in death squad activities. Reportedly, to date only two of these people have even been transferred and a third is being investigated. No one has been disciplined. While the permanent removal of these people from active duty would only reach the tip of the iceberg, it is a good place to start. Accordingly, the names of these two dozen people should be obtained by Congress and consideration given to making a portion of further U.S. aid contingent on proper handling of these cases through disciplinary measures or criminal prosecutions.

EFFECTIVE IMPLEMENTATION OF LAWFUL ARREST AND DETENTION PROCEDURES

Vice-President Bush reportedly also expressed concern about arrest procedures in El Salvador. Three days after his visit, on December 14, 1983, Salvadoran Minister of Defense Vides Casanova issued a general order requiring all members of the security forces to:

- "a. be in uniform while making virtually all arrests;
- "b. detain prisoners in recognized places of detention;

"c. finally eliminate the use of torture and other means of coercive interrogation; and

"d. report all arrests immediately to the Armed Forces Chiefs of Staff, the International Committee of the Red Cross, the government-sponsored Human Rights Commission or immediate relatives of the detainee."

Compliance with this order should also be considered one of the conditions of some portion of U.S. aid, with one minor modification. Family members should be notified immediately following every arrest.

CREATION OF A FEDERAL AGENCY TO INVESTIGATE POLITICAL KILLINGS

Another possible condition of some portion of future aid is the creation of a strong, independent federal investigative agency that is controlled by the civilian government and has jurisdiction over cases in which members of the military are accused of crimes against civilians. There is currently no centralized Ministry of Justice in El Salvador capable of properly investigating and prosecuting crimes committed by armed force personnel against civilians even if there were the will to do so. At least some of the problems in investigating and prosecuting members of the armed forces for political killings are related to the lack of proper investigative resources within the civilian branch of government. The concept of a civilian investigative agency was endorsed in a 1983 report by the Association of the Bar of the City of New York, Justice in El Salvador, which concluded: "we believe it important to centralize responsibility for these functions in [a] new ministry of justice in order to re-establish the principle that security force members are subject to the same rules of law as all other citizens and to do so in a way which avoids dividing investigating and prosecuting responsibilities between separate agencies."

ESTABLISHMENT OF A CENTRAL MILITARY PROSECUTOR

Separate problems in prosecuting strictly military crimes and infractions of disciplinary rules within the armed forces could be addressed, at least, in part, by the creation of a central military prosecutor's office within the Ministry of Defense. The creation of such an office is no substitute for the establishment of a civilian Ministry of Justice with clear jurisdiction over members of the military in all cases where victims of military crimes are civilians. In these cases jurisdiction should remain squarely with the civilian system of justice. A central military prosecutor's office would, however, provide a useful complement in strictly military cases and its establishment, as an agency working in conjunction with civilian authorities, should be another condition of progress.

PROTECTION OF HUMAN RIGHTS MONITORS AND REFUGEE WORKERS

In recent years those who work with human rights organizations and religious and voluntary agencies that provide care to displaced persons and refugees have been singled out for particularly harsh treatment. Special measures should be taken to ensure their safety and this also should be made a separate criterion for future aid.

INDIVIDUAL CASES

"a. *The Churchwomen's case.*—The Specter amendment should be extended to any supplemental and other future requests for military aid until a verdict is obtained in this case. Such action is made necessary by the continuing delays in the prosecution of five national guardsmen who are now in detention for the murder of the churchwomen.

"b. *The AIFLD case.*—Charges should be brought against Captain Avila, Lt. Rodolfo Isidro Lopez Sibrian, Mr. Ricardo Sol Meza and Mr. Hans Christ, and the Specter amendment should be extended to include a successful prosecution of these individuals. After three years, in a case where clear evidence exists to obtain convictions, decisive action is clearly warranted. Vice-President Bush reportedly expressed U.S. concern about the lack of progress in this case. Although Captain Eduardo Avila was arrested in December, 1983, the case remains at a virtual standstill.

"c. *Lt. Commander Albert Schaufelberger.*—Lt. Commander Schaufelberger was murdered on May 25, 1983. In late August a Salvadoran student, Daniel Alvarado, was arrested by the Treasury Police. Subsequently, when Mr. Alvarado was brought before the press, Treasury police officials told reporters that he had confessed to the crime. In November the U.S. Embassy in San Salvador announced that, based on tests conducted by U.S. experts, Mr. Alvarado was not involved in the killing. Ap-

parently Mr. Alvarado was tortured by members of the Treasury police and confessed to a crime he never committed under duress.

The State Department publicly criticized the coercive methods used to obtain a confession in this case. The Embassy also has called for a full investigation of this incident, noting that the Government of El Salvador "will take appropriate actions with respect to any officials who are found to have coerced this confession." Despite these assurances Mr. Alvarado remains in detention, reportedly in the continued custody of the Treasury police. The Salvadoran Government's "investigation" of his mistreatment has produced nothing. Progress in this investigation should be made another condition of future aid.

d. *Archbishop Oscar Romero*—Assassinated in March 1980, Archbishop Romero's case has never been seriously investigated. According to a recent article in the *Albuquerque Journal*, a State Department cable reports that Captain Eduardo Avila may also have been involved in this murder. According to the cable he claims both to have planned and helped facilitate Archbishop Romero's assassination. To date, no formal proceedings have been undertaken against anyone for this murder. A full investigation and prosecution of this case should also be made a criterion of progress.

As we have noted in the past, the Salvadoran Government has, in recent years, lacked the will to improve the country's gruesome human rights situation. Judged by any reasonable standard, El Salvador has not made progress in this regard and the situation is unlikely to change until real pressure is applied.

To the military governors of El Salvador, the withholding of aid constitutes the only real pressure. Recent pronouncements by Vice-President Bush, Secretary of State George Shultz, Ambassador Pickering and others are an important first step, but unless specific conditions make the withholding of financial aid a real possibility these words will lose their meaning.

While Congress faces difficult choices, the time to act is now. There is a growing demand in this country and elsewhere to fix responsibility for the gross abuses of human rights that have become synonymous with El Salvador's armed forces. This demand is central to the wider demand that elementary respect for human life be restored and respected by those who govern El Salvador, and by those who support that government.

Mr. BARNES. Thank you, gentlemen. As you know, the week before last, Assistant Secretary Abrams and Assistant Secretary Motley appeared before the committee, and were asked if the certification had been in the law at this time, if the President had not pocket vetoed the certification requirement during the recess, whether they felt the requirements of the law had been met, and that the President could have made the necessary certifications. Secretary Motley responded that he had not adequately considered the question to give us his judgment. Secretary Abrams said he had, and he thought the answer was yes, that the certification could be made at this time.

I would be interested in your comments on that question, and Mr. Diskin in particular. I gather you are saying that the land reform program has been derailed from the inside. The President, as you know, recently did make a certification with respect to the land reform program, arguing that the Government of El Salvador does continue to make progress on implementing that program. I would be interested in your specific comments on that certification, but I would be interested in any comments anybody would like to make with respect to the general issue.

Mr. DISKIN. Shall I respond?

Mr. BARNES. Mr. Diskin, certainly.

Mr. DISKIN. The previous three certifications of land reform that have occurred since the election of March 1982 have all failed to address the political nature of the entire land reform implementation program. It seems obvious that once the far right and its political party has seized control of the entire bureaucracy to imple-

ment land reform that there must be some consequence in its implementation, and yet that is the one outstanding question never asked.

NUMBERS GAME

The way certification has been handled in land reform from its outset has been to observe the numbers that appear in various boxes of a matrix, so in phase III, for example, the significant numbers are the issuance of applications, the awarding of provisional titles, and the awarding of definitive titles, and then some data about dollar amounts for compensation for ex-landowners.

Well, in every 6-month period the number in any given box has been larger than the number in the previous 6-month period box, and that has been the sole definition of progress in land reform. Occasionally things have broken out so severely, such as the forcible eviction and intimidation of beneficiaries in phase III, that the certification documents will make mention of them, and immediately point to counter evidence about the reinstallation issue.

It seems to me that in the first place, the criteria for determining whether continued progress has been made have been very slender ones, very narrow, examining only the most formalistic notion of implementation rather than in something which is highly political. It is in any country that it is implemented to examine it broadly.

REAL BENEFIT IS IGNORED

Another thing that has been methodically ignored is the real benefit to beneficiaries. The original legislation and every major pronouncement on land reform talks about promoting economic development, granting dignity to beneficiaries, improving their nutritional status, their material level of living. That is another aspect of the program that has never been measured.

Looking now at the constitutional mandate for land reform in El Salvador, I would say that this document, in its text and its statutory provisions, is not only a rollback to decree 153 of March 1980, which is the basic law of land reform—because it is more restrictive, more stingy to beneficiaries and more generous to landowners—it is not only a rollback to the Armed Forces Declaration of October 15, 1979, which was the basic social text that the new reformist officers instituted to give the revolutionary program, as they called it at that time, life.

It is also a rollback of the political constitution of 1962, whose article 32 spoke about the social function of property, gave rise to a very vigorous debate within the country about a land reform that was almost instituted in 1976, but because it was too radical for the same forces of the far right who are now the enemies of this land reform, toppled the government and instituted a much more repressive government that finally gave way to the military coup.

I regard this as not only not continued progress, but a massive step backward in time, that has consolidated control over the agrarian sector in such a way that if it is not brought to public attention, will not simply undo what happened in October 1979, but will be the vision of 1932, an agrarian society with absolute control

of the entire rural population in every aspect, and that, in the view of many people that I did interview in the country, would be business as usual, and something to be desired.

Mr. BARNES. Do other witnesses wish to comment on the certification issue?

NO PROGRESS ON HUMAN RIGHTS

Mr. NEIER. I would like to comment on the first two elements of the old certification law. The first required that the Government of El Salvador had to be making a concerted and significant effort to protect internationally recognized human rights. It seems to me that in a circumstance in which no member of the armed forces has been tried for a human rights violation, it is inconceivable that anyone could in good faith suggest that a concerted and significant effort has been made to protect internationally recognized human rights.

The second criterion of the old certification law provided that the Government of El Salvador had to be achieving control over all elements of its armed forces, so as to end torture and murder by those armed forces.

Let me just focus for one moment on torture, and one of the armed services. The Reagan administration frequently points to the National Police as the most cooperative branch of the security forces in El Salvador.

INCIDENTS OF TORTURE

When I was in El Salvador last month, I went to the prisons where male and female political prisoners are confined, Mariona Prison, and Ilopango Prison and, among other things, interviewed five persons who were employed by religious organizations, either the Roman Catholic Archdiocese or the Lutheran church, in performing humanitarian assistance for internally displaced persons. Those five persons whom I interviewed had all been taken into custody during the last 6 months by the National Police, and there was an innovation in torture. It was used in connection with each of those persons.

Each of them had been picked up in a van, blindfolded in the van, and then electrodes were attached to their ears in the van and they were tortured in the van with electric shocks to their ears, apparently because the national police didn't want to wait until they were taken to police headquarters in order to get those people to give statements about other persons who might be picked up. Two of them, a man and a woman, were picked up together. In the case of the woman, she was given these electric shocks to her ears; and the man who was in the van said that she started to swallow her tongue and go into convulsions. And they radioed national police headquarters for instructions as to whether they should continue the electric shocks.

Mr. BARNES. I gather you would have a different view of this, Mr. Mintle. Would you care to comment before I call on my colleagues?

Mr. MINTLE. On the specific area of torture, the young guerrilla we had spoken to had been captured 4 days earlier out in the coun-

try; told us he was planning, with 24 others, to defect at that time but had gone home on leave and had gotten caught while on leave at home. I asked him specifically whether or not he felt himself in any danger of life, if he had been specifically tortured. Both of those questions he responded in the negative.

I, in fact, said, "Well, how is life different now that you are here being captured as opposed to when you were out fighting the war?" And he said, "Now we get our food on time and there is a bed to sleep in and a place to rest." I asked him if he considered his life in danger in the future. He said no. I said, "What do you plan on doing?" He said, "I don't know, at this point." I said, "When will you be released from jail?" He didn't know.

He certainly let me know he felt a lot better off, at least food-wise and safety-wise, than he had out in the field with the fear of being shot by his own commander.

Mr. BARNES. The gentleman from California, Mr. Lagomarsino.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. Mintle, when were you in El Salvador?

Mr. MINTLE. December 2 through 9, 1983.

Mr. LAGOMARSINO. You say in your statement that our press has reported a story. The American people ought to have the facts.

How do you suggest that that be brought about?

BIAS IN MEDIA REPORTING

Mr. MINTLE. What we saw differed so obviously from what we read going down that it seems to me that the answer to the question is to seek out both sides of the question. I don't know whether or not that is being done. I know that the reporting that we read was obviously one sided. It didn't—they didn't have—none of the press reports that we read went up into and saw the military bases on the Guazapa Mountain. None of the press reports we had read had talked to any refugees in San Vicente.

Throughout our 8-day stay there, we just kept running into people, who were telling us things, who lived there and—one of my feelings is that, having grown up in the culture and being fluent in Spanish helps people to open up more than they would to a traditional newsman. I don't know if that is the case or not. But I certainly felt an openness when some people spoke to us about the conditions in the country.

Mr. LAGOMARSINO. It will be interesting to see your story carried by the press. And the fact that you are outnumbered, I would say, 5 to 1 shouldn't make any difference if they want to report accurately on what took place here today.

I would suggest to you, however, you may well see that your story is carried about the same way as the press conference that Mr. Hyde, Mr. Solomon and Mr. Bereuter and I held in El Salvador about a year ago entitled—and we thought this would grab some attention—"Guerrillas Don't Need Certification."

Well, apparently, it didn't grab much attention, although a few papers here carried it, most did not say anything about it. So it will be interesting to see how that is carried.

Ambassador White, according to a State Department recent story on the situation in El Salvador, the number of killings by right-

wing death squads was four times higher in the fourth quarter of 1980 when you were Ambassador to El Salvador than it is today, and that is so apparently whether you use the average of varied Salvadoran sources which show about 1,548 at that time or reports in the Salvadoran press which showed about 514. But, in any event, the figure then was about five times as high as it is now.

At the same time, conditions on aid to El Salvador were much more stringent and the amount of military aid we were giving El Salvador, of course, was much less.

Can you tell us what actions you took while you were Ambassador to try to control this kind of activity, why they failed, as they apparently did? And, second, how do you explain the sharp drop in death squad activities since you left El Salvador?

HUMAN RIGHTS VIOLATIONS IN 1979-80

Mr. WHITE. We were making some reasonable progress during the midpart of 1980. But I am quite candid to admit that we were not successful. However, certain statements made by people associated with the campaign of then Mr. Ronald Reagan, for the Presidency, led the Salvadoran right to believe that as soon as he took office that all human rights restrictions would be removed. And the real increase in the violence took place during the last 3 weeks of November, December, and January. That is when this surge took place, as witnessed by the killings of the two agrarian reform advisers from the American Institute of Free Labor Development, the killing of the American churchwomen, the killings of the six Democratic Revolutionary Front leaders. It was simply a wave of terror subsequent to the election.

The measures that I took, and that I still believe strongly in, except for \$5 million in nonlethal military assistance—that was already in place when I arrived in El Salvador—I resisted successfully up until the January 16 any assistance, any kind of military assistance to the Salvadoran Armed Forces. I resisted pressures from Washington, sir, to put in military assistance. And I was successful up until the last few days of the Carter administration when, over my objections and while I was out of the country, certain people pressured with stories that the guerrillas would be in the streets of San Salvador inauguration day. The Carter administration approved that aid over my objections.

Mr. LAGOMARSINO. Wait, wait—

Mr. WHITE. Just a minute. I will finish my testimony in 1 second.

I would point out that at a minimum, at a minimum, the United States, by refraining from furnishing lethal military assistance to El Salvador, the United States was not associated with these death squads and with this gross pattern of the abuse of human rights.

Mr. LAGOMARSINO. Are you saying today that you did not ask for military assistance for El Salvador while you were Ambassador to El Salvador?

Mr. WHITE. Yes; I am saying that.

NONLETHAL MILITARY AID IN 1980

Mr. LAGOMARSINO. You told us—what was it; 2 years ago?—that you did, and specifically in answer to a question from me, you said you asked for ammunition and helicopters.

Mr. WHITE. One moment. What I said, or what I certainly remember myself saying, is that the administration approved the provision of those helicopters and the ammunition, and once the administration made that decision, I supported it. But you will find—and I wish you would request this administration to release to you the telegram in which I said, the Government of the United States has decided this, and this represents a policy, and there are grave dangers in this policy.

Mr. LAGOMARSINO. Mr. Chairman, if I might go on for just 1 minute here.

I recall, also, at that same hearing you said that the President of El Salvador, who was Napoleon Duarte at that time, had asked you for that assistance, and that you had agreed, and that you believed he was telling the truth at that time when he asked for that assistance.

You then said that you didn't believe that the Government of El Salvador at the time you were testifying had asked for assistance. And the chairman of the subcommittee, Mr. Barnes, made a statement at that point saying that he had just talked to the President, President Duarte, on the telephone, and that he had assured him—the chairman of this subcommittee—that he had indeed asked for the assistance.

You don't recall that?

Mr. WHITE. Yes; sure I recall, more or less, that scenario, yes. But that is quite a different issue.

What we are talking about now is the desperate struggle of Napoleon Duarte to walk a narrow line, and he was very reluctant to ask for military assistance. But he was pressured by the generals to do so.

I went to him and told him that some military assistance had been approved. He said, very well, but I don't want any technicians or any advisers—I don't want any advisers. I said, look, if you are going to have the equipment, the helicopters, it is just silly not to bring in the technical people to make sure they work.

At this point, the Pentagon had established a special channel directly with the head of the armed forces, General Garcia, and he knew about the approval of military assistance before I did, and the Pentagon actually had the planes in the air before the President had approved the military assistance. I succeeded in getting them turned around. But, finally, as I said, this assistance was approved and indeed it did come in.

Mr. LAGOMARSINO. But you didn't ask for it?

Mr. WHITE. Well, I didn't ask for it, no, sir, not in the sense that you mean it.

Mr. BARNES. The Chair recognizes the gentleman from Illinois, Mr. Hyde.

Mr. HYDE. Thank you, Mr. Chairman.

OPPOSITION OFFENSIVE WAS SPONSORED BY NICARAGUA

I would like to ask Ambassador White if he would agree with this statement that appears in the report on the situation in El Salvador issued by the Department of State, January 16, 1984: El Salvador's:

Violent left received a major psychological boost in July 1979 when the Nicaraguan National Guard dissolved and the Somoza dynasty collapsed and the Sandinistas assumed power. The possibility of military victory in El Salvador suddenly seemed more real. Moreover, having backed the Sandinistas with men and money, the guerrillas were now receiving Nicaraguan support for an escalated arms struggle in El Salvador."

In other words, this surge of violent activity occurred in 1979 when the Sandinistas came to power. Is that not so?

Mr. WHITE. I agree with most of that statement up until the last couple of sentences. The idea that the rebel movement in El Salvador depends in any important way on Nicaraguan assistance is illusory. There is only one demonstrated instance where the proof is there that the Nicaraguans cooperated in sending arms to El Salvador, and that was during the time that I was there in October, November, and December 1980. And they funded—or they sent arms in for this—for what they call the final offensive.

Mr. HYDE. You realize, Ambassador, your views are at variance with the views of the Select Committee on Intelligence, which is bipartisan, both in the House and the Senate, which in their most recent report conceded that overwhelming support and direction of the guerrilla movement in El Salvador is from Managua, Nicaragua.

Are you aware of that report?

Mr. WHITE. Congressman Hyde, I am very familiar with intelligence reports and I am also very familiar with the need to evaluate intelligence very carefully.

Mr. HYDE. Sure.

ARMS FLOW FROM NICARAGUA "INSIGNIFICANT"

Mr. WHITE. To the extent that you focus on outside support as crucial to the success of the guerrilla movement is to the extent that you miss the point. That support exists. But when I was in Central America last year, both responsible officers in both the Embassy in Managua and the Embassy in Tegucigalpa told me that any assistance that might once have flowed from Nicaragua to El Salvador had been reduced to a trickle. The word they used was "insignificant."

Mr. HYDE. I am not talking about intelligence reports. I am talking about the report of the select committee.

Mr. WHITE. Which is presumably based on intelligence reports, sir.

Mr. HYDE. On an array of sources including intelligence reports, but it is a bipartisan committee that hears secret testimony. And when they can agree on that, I just wanted to make the point that you disagree.

REPORTS BY TUTELA LEGAL

The organization of the church that supplies statistics on death squad deaths, do you have any statistics on guerrilla deaths on people the leftwing guerrillas kill?

Mr. NEIER. If I may answer that, Congressman, because in our report we publish Tutela Legal's findings on the number of persons who are killed by the guerrillas. Tutela Legal, since it was established by the Archdiocese in May 1982, has continually provided those statistics. The statistics they provided during the last 6 months is that some 24 civilian noncombatants were murdered by the guerrillas in cases that were reported to them. In addition, they reported during the last 6 months some 21 abductions by the guerrillas.

Prior to the last 6 months, there were a number of cases in which the guerrillas executed captured soldiers, particularly in May and June 1983. We were unable to get any such reports, and the U.S. Embassy didn't have any such reports during the last 6 months.

Mr. HYDE. How do you strike that. I am just surprised because I see in a telegram from the Department of State for our Embassy down there that Tutela Legal does not publish figures, claiming they are—

Mr. NEIER. That is not correct, sir.

Mr. HYDE. Claiming not to have access to such information.

Mr. NEIER. That is not correct.

Mr. HYDE. I am glad to hear that.

Mr. WHITE. May I point out, too, Congressman Hyde, that our Government does not supply arms to the guerrillas; at least, we don't intend to. And I would also point out that during my tenure as Ambassador there was never any discrepancy between what the church organizations were reporting as the Government abuses or what the free press was reporting, or what the Embassy was reporting. This is basic to the problem of the Reagan administration.

What you have to do is first come to grips with the reality and stop pretending that things are different than they are. Once you decide what the reality is, then you may advocate one policy and I another. But at least we will have some common ground.

Mr. HYDE. Sure; in other words, everyone has a right to their particular opinion; but no one has a right to be wrong.

Mr. WHITE. Sure.

POLITICAL MURDER VS. MILITARY OPERATIONS CASUALTIES

Mr. HYDE. I would just like to say, Mr. Chairman, if I may, with your indulgence, that one of the problems is determining how many of these killings are political killings by death squads and how many are deaths as a result of military operations.

It seems to me, in analyzing the figures, that the figures that are used, the 38,000 deaths since 1979, civilian deaths—it seems to me that included in that are people who have been killed as a result of military operations. Every death is considered to be political. Whereas, a lot of these people are killed because they are with the guerrillas, traveling with the guerrillas—may well be supporting the guerrillas—but they are there in the line of fire and people get

killed when they are in the line of fire, in a zone where fighting is going on. But if you were to deduct from Tutela Legal's figures those that were killed as a result of military encounters, Armed Forces sweeps, and bombings, and you were reducing it to those people that are strictly political, you get a figure during the last 6 months of 505; and you get a figure from our Embassy of 563. But, again, your choice is as good as mine. Perhaps, maybe you would say yours is better. But if you want to list every death as a death-squad political death, you get the big figures. But I just don't think that is any more accurate than saying none of them are the result of politics.

The downstroke is if we cut out military aid, we end up with a situation as we had in Iran—the Shah was a bad guy, the SAVAK violated human rights, so let's pull out support—and you end up with an Ayatollah. It doesn't seem to me turning El Salvador over to these Marxist-Leninist Communist good guys is going to advance anything for the poor people in the middle between the right and the left, the poor 5 million people living in El Salvador.

I thank you for your indulgence with more time.

Mr. WHITE. The whole point to my testimony, Congressman, was first that D'Aubuisson and ARENA are inside the Government of El Salvador; that he is a death squad leader; that he has presided over the killings of hundreds of people, including Archbishop Romero. The evidence exists and the Reagan administration has suppressed it.

Mr. HYDE. We didn't put him there. He was elected.

Mr. WHITE. Excuse me. The point is that the Reagan administration reversed the policy of the Carter administration, took him out of pariah status, granted him a visa which we had denied him, permitted him access to the embassy, which we had denied him.

Mr. HYDE. Wasn't he just denied a visa?

Mr. WHITE. Yes. And that brings up a very interesting point, sir.

This is a government of laws and not of men. I would like to know under what provision of the Immigration and Nationality Act, Roberto D'Aubuisson was denied a visa. As you know, there are listed 30-odd provisions under which you can deny a visa. If he was denied it under 27 or 29, that is more proof that the Reagan administration recognizes the heinous character, of this man.

Mr. HYDE. That is not a crime, having a heinous character; is it? You don't put someone in jail——

Mr. BARNES. The time of the gentleman has expired.

Mr. WHITE. You are right. But killing people is a crime, or should be.

Mr. BARNES. The Chair will recognize the gentleman from California, Mr. Berman.

PRESS FREEDOM IN EL SALVADOR

Mr. BERMAN. I would like to ask Ambassador White, in discussing your prepared testimony, the fact that the press in El Salvador will not report what has been revealed regarding D'Aubuisson's activities, what is the status of the press in El Salvador?

Mr. WHITE. The press in El Salvador now, as far as I know, consists of only two major newspapers. One is in the hands of a very

right-wing total supporter of D'Aubuisson; the other is controlled by a man named Viera Altimirano, who resides in Miami, who has been identified by several sources as being at the center of the ARENA institution which funds D'Aubuisson.

Just to give you one idea of the type of reporting that his newspaper does, the day after the deaths of Michael Hammer and Mark Pearlman and the head of the Land Reform Institute Rodolfo Viera, which is now proved beyond any doubt to be the responsibility of the military and of the D'Aubuisson clique, he printed an entire story, totally fabricated, regarding eyewitness accounts of how the left killed these three men.

So there is just no free press in El Salvador; there is no free radio and no free television. We have an obligation, it seems to me, to recognize that elections are not really going to do very much when a society is so completely controlled as the current El Salvador is by ARENA.

Mr. BERMAN. Does Mr. Mintle have a different opinion?

Mr. MINTLE. Congressman, I am not aware of the political leanings of the owners of the newspapers of El Salvador. I don't know.

Mr. NEIER. Congressman, could I just supplement that?

Mr. BERMAN. Yes.

Mr. NEIER. There were two other newspapers. La Cronica—the editor of that paper was hacked to death in 1980, and it has been closed since. And El Independiente, army tanks surrounded it in January 1981. It has been closed since. This bears on the reporting of statistics because the U.S. Embassy relies on press reports, and since the press is extreme right-wing and gets its information anyway from Government sources, you can imagine what those statistics would show.

Mr. BERMAN. Well, in that connection, and given everything else going on with the death squads and the unwillingness or inability of the Government to control them, the upcoming elections—can anything be done? What should the United States be doing to insure free elections in El Salvador?

NEGOTIATIONS BEFORE ELECTIONS

Mr. WHITE. Well, Congressman, the last thing that Central America needs is another flawed election, another election where nothing results to improve the lot of the people. The cynicism about elections in Central America is so deep and so pervasive that we are simply conniving at the basis of the democratic process.

The fact is that the left is not free to participate in these elections. The president of the country, Dr. Magana, stated publicly that if any people of the leaders of the left, including Dr. Guillermo Ungo, came back to El Salvador to participate in elections, his first duty would be to arrest them.

Elections are just not the appropriate vehicle to decide the basis of the society. That has to be done by negotiation. Once you negotiate, and agree on the basis of a society—then you can pick the team which may run that society.

Mr. BERMAN. What does that mean? You have to negotiate the composition of the Government, or you have to negotiate the content of the elections?

RESTRUCTURING OF THE MILITARY

Mr. WHITE. No. There is a pet phrase of the administration: We reject power sharing. Now, what power sharing means to the administration is simply this: That nothing will touch the absolute power of the military of El Salvador. The military of El Salvador could not care less which civilian becomes president except for Napoleon Duarte. The rearranging of the tiny fragment of power that is left for the civilians is really not an issue.

What you must do if you are going to have real elections is that, first, you have got to restructure the military, move out the death squad leaders and have a military in there which will respect the law. But the military of El Salvador is above the law.

Mr. BERMAN. Does anyone else have any comment?

Mr. NEIER. Yes.

SECURITY FOR ELECTION ACTIVITIES

In today's Times, Secretary Shultz is quoted about elections in Nicaragua, and this is what he says. He says,

An election just as an election doesn't really mean anything. There are elections held in the Soviet Union. The important thing is that if there is to be an electoral process, it be observed not only at the moment when people vote but in all the preliminary aspects that make an election really mean something.

I think he is exactly right when it comes to Nicaragua, but I think also those same statements could be applied correctly to El Salvador. An election doesn't really mean anything unless you have the processes in place.

Just to indicate what the administration thinks is required, I refer to Mr. Motley's testimony before this committee on January 26. He said that El Salvador's Peace Commission remains prepared to meet with the armed left and its political associates to discuss their participation in free elections, including physical security for candidates and access to the media.

Well that is all very well but he left something out—there has to be physical security not only for the candidates, you can guarantee it for the candidates, you can put a well of protection around the person who is campaigning for president, there also has to be physical security for party activities all around the country.

No one is in a position to say that they could provide physical security for party activities of the left all around the country. The last left leader in San Salvador was murdered in September, Mr. Quintanilla, and that is what would happen to any party activist who stood up. Anybody who has run for election knows it isn't only the candidate that has to campaign, there has to be an election apparatus and that is what cannot be guaranteed in the present situation in El Salvador.

Mr. BERMAN. Is there anything we could be doing to change that situation?

Mr. NEIER. In order to change that we have to change a great deal. We have to end the political violence first and foremost by seeing to it that those engaged in it are tried and criminally punished for the violence. When that prospect of trial and criminal punishment is real, then one can expect a real decline in the political violence of El Salvador.

Mr. BERMAN. Essentially then the death squads so infect the whole population and the whole country that that election process cannot go on until they have not reduced of not gotten better, but until their activities have ceased?

Mr. NEIER. It cannot be regarded as a really meaningful election until one can curb the political violence.

Mr. BARNETT. The time of the gentleman has expired. The chair recognizes the gentleman from New York, Mr. Solomon.

Mr. SOLOMON. I thank the chairman, and I guess I will direct my questions to Mr. White since we don't have much time here, but I have been having a very difficult time following your presentation with some of the contradictions Mr. Hyde brought up.

I look at some of these statements where you go on to say, from the first days in office the Reagan White House knew beyond any reasonable doubt and you go on to talk about the ARENA group and Roberto D'Aubuisson. Then I read your statement in the New York Times on January 27 when you start to say if you are trying to get evidence against the Miami exiles that would stand up in court you will never get it.

Then I read on page 5 of your statement which I don't think you read in our oral presentation here, you seemed to skim over this part, but you go on to say that they have continued to pursue these tactics in Miami but on a far greater scale.

For instance—and here you speak factually I take it because it is your statement—it says, for instance, "They have bribed many military officers and politicians here"—I guess here in America—"and abroad to serve their interests." Can you tell me, for instance, is that a true statement, the one I just read?

Mr. WHITE. Yes, sir, I regret any difficulty you may have had in following that and I recognize the testimony was prepared in a little bit of a hurry but that is a quote from a Salvadoran source. He is putting the thing in historical context. He is saying this is what they have traditionally done.

Mr. SOLOMON. Well, in other words, you in giving us this information though, you can't give us the names or identify any of those American military officers or American politicians that—

Mr. WHITE. Excuse me, there is no implication that they bribed American politicians or American military. What that says is that they have bribed Salvadoran businessmen and Salvadoran military officers, et cetera. That is a statement by the source referring to the activities of the people now resident in Miami and what they formerly did and what they are doing in increased intensity today.

Mr. SOLOMON. Mr. White, I want to get over to a question to Mr. Neier, also, and I don't have much time, but let me just pose a question to you. Do you think that when you use third party statements as the basis of your accusations here, have you considered that you are the victim of misinformation or that you are the victim of organizations which would benefit from such charges?

Do you look at the other side and just wonder about that?

Mr. WHITE. I certainly do and I take what I do very seriously. Recall that those sources mentioned in there are sources developed not by me alone but by the U.S. Embassy over a period of years, sources that have proved reliable, sources in whom the United States has officially placed great confidence.

REAGAN ADMINISTRATION TOLERANCE OF THE RIGHTWING

Mr. SOLOMON. Mr. White, just in closing before I get over to Mr. Neier, let me just as a young fellow give you as an old fellow in years of service evidently in the Foreign Service a little constructive criticism.

When you come in with a statement like the political and moral bankruptcy of the Reagan administration—statements like the Reagan administration has suppressed facts—when you make statements like it was the Reagan toleration and acceptance of the extreme right—you know, you ought to tone it down a little bit if you want people like me to believe you.

Mr. WHITE. I would just like to respond to that. I consider that an accusation. I back up every one of those statements. If you don't think it is irresponsible, sir, to promote the political fortunes of a known killer who had been found to be a terrorist by the Carter administration, and who now bids fair to take over the direction of El Salvador, I would like to ask you whether you don't regard that as a politically or morally bankrupt policy?

Mr. SOLOMON. Let me just say this, I have been an outspoken critic of communism, international communism. Should we call for Andropov's resignation from Russia simply because he headed up the KGB and committed all those atrocities.

Mr. WHITE. Our funds do not go to support Andropov.

Mr. SOLOMON. If I could reclaim my time, Mr. Ambassador, I don't think we ought to be in the business of telling somebody who can run for President and who cannot.

Mr. WHITE. I am not suggesting that, sir, what I am suggesting is you don't actively connive to rehabilitate a man by finding a terrorist eligible to enter our—

Mr. SOLOMON. Nor has the Reagan administration.

Mr. WHITE. Yes, sir, it has.

Mr. SOLOMON. Now, Mr. Neier, would you answer these questions for me.

HUMAN RIGHTS VIOLATIONS BY THE LEFT

Other than Mr. Mintle, none has addressed the role of the left which I have been looking at and some time ago presented documents, over 10,000 cases of human rights violations by the left. I was just wondering, I don't want us to lose sight of the fact in any way that many of these human rights violations come from the left. As I read your statement, Henry Hyde touched on it, where you talk about only 24 murders by the left, when I was over there and had the opportunity to talk to many of the campesino farmers out in the far reaches of wilderness areas of El Salvador, that was not the impression I got. I got the same impression that Mr. Mintle got completely, and if your organizations are going to have credibility with the Congress again you are going to have to separate those murders and killings done by the left either in combat or not in combat and those done by the right because people like us we don't support the rightist death squads but we certainly don't like people like you not even talking about the human rights violations by the left.

So if you are going to have credibility again, bring in your reports and show us both sides of the issue.

Mr. NEIER. Mr. Congressman, our report which I submitted here has a section labeled "Human Rights Violations by the Guerrillas." It starts at page 41 of the report that we submitted to this committee. When I answered the question before I answered the question with respect to the civilian noncombatants who were killed by the guerrillas, I did not deal at point with the question of deaths in combat. That is a different question and the human rights monitoring office of the archdiocese with respect to that simply uses the figures that are used by the Salvadoran Armed Forces itself of soldiers who are killed in combat.

Then let me say, also, that with respect to the figures compiled by the Roman Catholic archdiocese we say in our report that all the figures that they compile are understated. The reason that they are understated—that is the killings by the Government and the killings by the guerrillas—is that they have an office in San Salvador on the fourth floor of the building of the archdiocese. They do not tabulate killings by anybody unless they get a family member or witness to the killings who comes to their offices and presents testimony.

There are a lot of people in remote parts of El Salvador who do not make it to San Salvador to present testimony to the archdiocese. Accordingly their figures are the best one can get but they are considerably understated both with respect to the guerrillas and with respect to the Salvadoran Armed Forces.

We say this in our report.

Mr. BARNES. The time of the gentleman from New York has expired.

The Chair wants to apologize to the witnesses. I have to leave to attend another function that I have a commitment to attend for months but fortunately the distinguished chairman of the Asian and Pacific Affairs Subcommittee is here and able to take the chair.

The Chair will recognize the gentleman from Nebraska, Mr. Bereuter.

Mr. BEREUTER. Thank you, Mr. Chairman.

This member gets a little frustrated with the calculation of terror and deaths that at times appears to be one sided. I think it is absolutely true that the number of deaths that terrorism conducted by the right wing death squads with connection to the military is a fact. The amount of terror, deaths, deprivation caused the Salvadoran citizens by the guerrillas is also a matter of fact.

I would be willing to stipulate that. I think most recently people in this Congress would stipulate that. We ought to get on then with deciding how we are going to reduce that desperate condition on both sides.

I would like to focus on the land reform program. Dr. Diskin, I appreciate your report very much. Obviously you have expertise in this area. I have spent time concentrating on this area myself.

LAND REFORM PROGRAM

While I do not disagree at least substantially with anything I see in your testimony today, I am a little bit concerned about the coverage and reaction to it. I have thought about how you might characterize phase I of the land reform program. In a nutshell I thought about the term "lousy" but I have decided to say "rotten."

It was a bad mistake. Any American involvement in this phase I program ought to be regretted. Anybody with any elementary understanding of agriculture, of management or organizational principles or a knowledge of cooperative farms around the world or collective farms where there is some similarity, I think would have not—would not have backed or selected this kind of process. But now the Salvadoran Government and people are stuck with the phase I program.

I noticed that you said the cooperatives are the bearers of enormous debt that must be paid off by long-term mortgage. That sounds a little bit like the farm operation in the Great Plains or the Midwest except that the debt is not long term, unfortunately.

When you take a look at the land they are farming today in phase I, the first thing you have to realize is that these parcels are among the best, most productive land in the country. Unlike phase III where these people are literally scratching out an existence in many of the very poor plots of land.

You also have to recognize, I think that there are far too many people involved and supposedly being supported by these phase I operations. But then you take a look at the way the land is being farmed next to it from the same property you have to realize these people are doing a better job of it despite all the limitations than the original landowner in terms of per acre productivity.

LACK OF TECHNICAL ASSISTANCE

I am depressed by the lack of technical assistance available to these cooperative farms. I think that has to be a priority. These people are trying their very best to not have elementary assistance in how to start poultry or pork operations, for example, areas with a lot of potential.

But I would shift to the phase II program, you said a few things good, I think, or at least nothing negative about that. I think they deserve a great deal of credit for the tremendous progress made in phase II despite all the difficulties and military conflict in some parts of the country. Also, there, I see just almost no technical assistance to these campesinos trying to scratch out existence on these plots.

We see all this mention of phase I, and phase II, and all the concentration seems to be on that. Why don't we talk about one of the most volatile activities the Government can be involved in—on phase III? Doesn't phase III in its operation under Colonel Torres, doesn't it deserve a great deal of credit for what is being accomplished there today?

Mr. DISKIN. If I can respond in the order you made your comments.

Phase I does not have more beneficiaries than can be handled. In fact the total beneficiaries in phase I is 50 percent.

Mr. BEREUTER. On a per farm basis?

Mr. DISKIN. The entire sector.

Mr. BEREUTER. I am talking about too many people on an individual farm trying to earn their living from it. That is my point. Would you agree?

Mr. DISKIN. It really depends on the farm. There are some that are understaffed and others that are overstaffed. If you called phase I lousy or rotten, I think is your word?

Mr. BEREUTER. Rotten is the term I prefer.

Mr. DISKIN. I will go with your term. Because it is handing over highly capitalized farm operations to people with no experience in that, then I would agree with you that it is rotten simply because the other mechanisms were not built into it understanding full well who the beneficiaries will be.

But if you characterize phase I in those terms, what must one say about phase III which in its maximum implementation would have taken less than 10 percent of Salvadoran farmland which is typically farmed at over 90 percent and overwhelmingly to basic grains and by common agreement the worse soils in the country, steep slopes, soils with much less fertilization and no technical assistance or credit, and sandy soils, that program I think we have to invent another adjective for.

Mr. BEREUTER. I see these campesinos on phase III having a clear stake in the country, a real property and an economic stake in the country and I see the amount of effort they are devoting to making those parcels work and then I compare it to what is happening in phase I and then I have to say despite the lack of assistance and credit and so on, that is a remarkable effort; wouldn't you agree?

PUBLIC SUPPORT FOR COLONEL TORRES OF ISTA

Mr. DISKIN. First of all let me agree with you about Colonel Torres. He is carrying out his mandate with a great deal of intelligence and energy. In one case he was attacked in the legislative assembly by the Minister of Agriculture under whom he works, on all sorts of grounds. There are public accusations in the newspaper.

Mr. BEREUTER. What do you think we should do about that to exercise our concern about continued support for Colonel Torres. What should we as the Congress do to reinforce his efforts?

Mr. DISKIN. I think any public support for him that you might offer for the record would be helpful and would find its way down there. But I think support for phase III, if you apparently approve of it, in the terms that you have described is absolutely necessary. It is difficult to administer credit to those people. They need not only credit and technical assistance, they need physical protection.

The reports that come in from the UCS about the violent eviction of peasants, over and over again the detail is abundant, talk about local military people and local landowners in collusion simply telling people not to claim their rights because this land reform is not a thing that is going to last.

For example, ex-landowners have almost not at all come in and demand compensation. The number of ex-landowners in phase III that have asked for it, is minuscule, that is because there is a massive sense that it is not going to last.

Phase III while I think it is very poorly constructed and this was an American imposed land reform, if it is to survive needs massive ancillary attention.

Mr. BEREUTER. Massive what?

Mr. DISKIN. Massive attention, support, ancillary attention is what I said, credit, extension, and so forth. I might also disagree a little bit in that my impression is that the American press when it talks about land reform really focuses on phase II because phase III was designed to generate numbers and it indeed does that.

So every time a land reform comes in the spotlight the new numbers of applications received are the measure of its existence.

TITLING PROCESS

Mr. BEREUTER. You know how the legal titling process works on phase II and the difficulties involved in that, the difficulties in a survey, the difficulties in changing title, and yet when we see articles in this country about phase III they concentrate on how few people actually have reached the clear title stage instead of looking at the progress that is being made toward clear title.

Isn't that accurate?

Mr. DISKIN. Well, there has been an enormous gap between the defensive titles and provisional titles or applications. Under Colonel Torres that gap has slowed down a little bit. One thing that has not been pointed out which ought to be, is an enormous gap in definitive, on phase I crops and the number of crops that have been compensated. Beyond compensation to titling on co-ops is a very tiny mechanical step. It basically means establishing a mortgage plan.

It can be done in 2 minutes. Twenty-five co-ops in phase I have been titled whereas over 194 ex-landowners have been fully compensated under the law. That gap is creating additional insecurity in that phase.

Mr. BEREUTER. Thank you for your testimony. Thank you, Mr. Chairman.

Mr. SOLARZ [presiding]. We will have a chance to go around again.

The gentleman from Iowa has been waiting patiently and I yield to him at this time.

Mr. LEACH. Thank you, Mr. Chairman.

SALVADORANS IN MIAMI CONNECTED WITH THE DEATH SQUADS

Ambassador White, in your testimony you detailed a profound scenario involving a group of six people in Miami that are, in your judgment intricately involved in happenings in El Salvador. You put it all in the third person describing what a witness said. I assume by giving this testimony to the committee that you believe this witness's statement are verifiable and accurate.

Is that fair to say?

Mr. WHITE. Yes, sir.

Mr. LEACH. If that is the case, could you outline for the committee some obvious questions and conclusions that might be drawn? For example, precisely what American laws are being violated? Are they murder statutes, or are they statutes relating to the IRS or to neutrality? If so, what techniques should be used to investi-

gate and prosecute? For example, are you calling for an FBI investigation or a grand jury, or is this something that we should simply recognize and be concerned with even though there is nothing we can do about it?

Mr. WHITE. My intention was to point out the connection between the Miami millionaires who really are the founders in a sense of ARENA, and who funded the activities of Roberto D'Aubuisson and his group in El Salvador, who routinely assassinate, torture and assassinate people and the U.S. Government's lack of patient willingness to do anything about this and indeed to be overly quick to discern progress when the basic problem has been left untouched.

Mr. LEACH. If I could pursue this a bit. It is one thing to describe a problem, but are you saying that a violation of U.S. law has occurred which the FBI or the Treasury Department should investigate? What violations of law are occurring? How should the U.S. Government respond to this Miami six?

Mr. WHITE. I presented to this Congress and to the Reagan administration the diaries of Roberto D'Aubuisson. It is like a Mafia notebook where if we just began, if the FBI just began to investigate this with an eye toward gathering evidence, I believe indeed that we would soon find out how complete these links are with the death squads.

Clearly, it is against the law for one of our great cities to be used as a headquarters to fund a political-military-fascist organization.

Mr. LEACH. To which law are you referring?

Mr. WHITE. Well, I would say that just transfers of currency, for example, outside of the United States.

Mr. LEACH. Precisely what are you calling for? Are you calling for a Federal Bureau of Investigation investigation? Are you calling for a Department of Treasury investigation? Are you calling for a district attorney investigation in Miami?

INCONSISTENT VISA POLICY

Mr. WHITE. Mr. Congressman, what I recommend in the telegrams that I sent in was a complete investigation of the activities of these men and if they were found to be in the violation of U.S. law, then we should move against them.

I would contend right now that we have sufficient evidence to, for example, not renew their visas. To simply say, you are an undesirable alien. We seem to have no trouble in sending poor Salvadorans back to El Salvador.

I don't understand why we have so much trouble sending rich Salvadorans out of the country when we have solid evidence that they are indeed funding violence outside of Miami.

Now, I am not a lawyer and I cannot give with any precision the laws that they may have violated. I am simply stating that the Miami group is using Miami as a safe haven from which they direct and fund the activities of ARENA which in turn routinely kills people who disagree with them.

Mr. LEACH. Is this all based on the testimony of one individual or do you have widespread testimony? You have made a statement to the committee in which you have carefully put everything in the

third person, that is, in terms of what an individual has said to someone, whether it be to you or to the Government.

Mr. WHITE. Right.

Mr. LEACH. I think it is important for this committee to know whether we have the testimony of one individual, indirectly given, or whether you are asserting that you have mountains of evidence to this effect. We need to know just how far we are able to rely on that.

Mr. WHITE. I am stating that this source, this one source is a totally trustworthy source, who has given us reliable testimony in the past, and gave us reliable testimony after that, and is one in whom the Reagan administration and the Carter administration both depend on as a person of total trustworthiness.

Mr. LEACH. Would he like to appear before a committee of Congress?

Mr. WHITE. I doubt it. I think he would be very unhappy if his name was revealed. Second, I point out that there is supporting evidence from other sources regarding this. We filed several reports. I come up with this particular—I cite this particular person, because I considered his firsthand account so compelling.

There is certainly a great deal of evidence, and our Embassy in El Salvador just the other day spoke about the Miami connection and D'Aubuisson being at the center of the death squads.

OFFICIALLY SPONSORED TERRORISM

Mr. LEACH. If I could just ask one quick question regarding a little different phraseology. You used a phrase in your testimony about officially sponsored terrorism. When we look at El Salvador, many people make analogies to Vietnam. But this term, "state-sponsored terrorism" has cropped up in the American political jargon in the last several months, in reference to our adversaries in Lebanon.

Do you see a contradiction here between U.S. policy in one area of the world, the Middle East, where we appear to be opposing something called state-sponsored terrorism, and another area of the world where we appear to be siding with forces that are advocating the same types of measures and techniques?

Mr. WHITE. I think that is an excellent analogy. I agree with it. I would only point out that in Lebanon, at least we stand for a negotiated settlement, but in El Salvador, the Reagan administration has rejected any kind of negotiations which could lead to some type of political accommodation, and the reentry of the left into the political process.

Mr. SOLARZ. I am sorry I wasn't here from the very beginning, but on the basis of the testimony I have heard and read, it seems to me that this has been a profoundly important and significant hearing so far.

I have a number of questions I would like to ask each of you.

NONCOMBATANT DEATHS

Let me begin first by asking if any of you are in a position to tell the committee roughly how many of the noncombatant deaths in El Salvador over the course of the last 4 years do you believe can

be fairly attributed to the work of the death squads as compared to the number of noncombatant deaths that ought to be attributed perhaps to the activities of the army in combat operations in which civilians are killed, or which can be attributed perhaps to the guerrillas or to others?

Mr. Neier.

Mr. NEIER. In looking over the figures compiled by the Roman Catholic Archdiocese during 1983, some 24 percent of the killings that they tabulated were killed by groups they identify as paramilitary squads.

The remaining 67 percent of those attributed to Government forces and paramilitary forces were attributed to a variety of forces, the great majority by the army, which would indicate things that are ostensibly called military operations, some by different security forces, such as the treasury police and the national police, and I think that is characteristic of the period since 1979.

Mr. SOLARZ. Based on your own investigation into these matters, which I gather have been rather extensive, it would be your judgment that roughly a quarter or so of the total noncombatant deaths appear to be clearly the work of the death squads?

Mr. NEIER. That is correct.

Mr. SOLARZ. Now, of the remainder, how many would you say are attributable in percentage terms to the activities of the army?

Mr. NEIER. If you take the remainder as 100 percent, I would say that—

Mr. SOLARZ. Well, of the 75 percent that are not attributable to the death squads, how much are attributable to the activities of the army?

Mr. NEIER. Recently, the overwhelming number to the point where the other security forces account for 2 or 3 percent, whereas earlier, the other security forces accounted for a larger portion.

Mr. SOLARZ. Now, is it possible to distinguish among the deaths which are attributable to the activities of the army, how many of those deaths are what might be characterized as the inescapable consequences of combat, in which innocent civilians are caught up in crossfires which can happen in any war, as opposed to how many of those deaths are the result of deliberate actions on the part of the army to wantonly slaughter civilians who are clearly not engaged in combat or who are not in the vicinity of combat operations?

Mr. NEIER. The archdiocese attempts to exclude from its figures those which involve people who are caught in what could actually be termed crossfire. They try to report only those where it is the army, in their opinion, clearly attacking civilians.

Mr. SOLARZ. And could you briefly describe for us the kind of attacks that take place here, because obviously that means that the bulk of the noncombatants who are being killed in El Salvador are being killed not by the death squads but by the army, but how does the army kill them?

Does it go into a village and line people up?

Mr. NEIER. It varies. I would say there are some instances in which it goes into a village or a neighborhood. I would take the massacre that took place at Las Hojas in February 1982, as going

into a place, pulling people out of their homes, executing them. That was done by the army.

I would call the episode at San Antonio Abad of that variety going into a neighborhood, pulling people from their homes.

Then during the past fall, the episode at Taninsingo, which was the Salvadoran Green Cross waving flags showing it was Green Cross and then planes attacking people, I would call that of a different variety.

GUERRILLA SUPPORTERS

Mr. SOLARZ. As you know, the guerrillas in El Salvador travel with their camp followers.

Mr. NEIER. Yes.

Mr. SOLARZ. Civilians who cook their food, run errands for them and the like. I gather they are characterized by the guerrillas as the masas and I was given the impression that many of the civilians who were killed fall into this category, that what frequently happens is the army will discover the guerrillas are in a particular location, may send their air force to bomb the guerrillas.

The process of attacking the guerrillas, unavoidably the so-called masas or camp followers who are inextricably intertwined with them get killed also. Is it your impression that when the human rights organizations count noncombatant deaths, people who are killed in the context of that kind of attack are included, or are they specifically excluded from the count?

Mr. NEIER. Again, when the archdiocese tabulates, they attempt, I am not sure that they can always succeed, but they attempt to exclude the people directly caught in crossfire. Let me just point out, with respect to the statistics, I think the best estimate as to the number of guerrillas in El Salvador is about 5,000 to 6,000.

The archdiocese has tabulated some 38,000 murders since 1979, so if you think of these as attacks upon the guerrillas, and there is no evidence that a very large number of guerrillas have been killed, the total number of deaths is at least, say, seven times the total number of guerrillas.

ELIMINATION OF DEATH SQUADS NECESSARY BEFORE THE WAR CAN BE STOPPED

Mr. SOLARZ. To what extent do you believe that the ability of the Salvadoran Government to bring this war to a successful conclusion, either politically or militarily, is contingent on the elimination of the death squads, and to the extent you do believe a successful resolution of this conflict is dependent upon the elimination of the death squads, why do you believe that to be the case?

Why couldn't the war be brought to a successful conclusion without the elimination of the death squads?

Mr. NEIER. It depends what you mean by successful conclusion. There is a line in Corneille's play, "El Cid," the combat ended for want of combatants. You can end a war in that fashion, if you simply kill everybody.

If you consider a successful conclusion is one in which some kind of humane and decent society emerges, it seems absolutely self-evident that you cannot possibly——

Mr. SOLARZ. By a successful conclusion, I really meant the effective elimination of the insurgency. Granted that it could be eliminated in ways which all of us would find to be morally, politically unacceptable, but if you look at it for the moment purely in military terms, does the elimination of the insurrection and the elimination of the guerrillas as a viable force in the country necessitate the elimination of the death squads, or could this potentially be achieved without eliminating the death squads?

NO MILITARY SOLUTION

Colonel KING. I don't believe that a military solution is going to be achieved in El Salvador, but if you assume that that could be accomplished, I think it could probably be accomplished if the death squads continue to operate, because they are not militarily that destructive to the organization, the plan of battle, but politically, they are a weakening force, as we have recognized here and have continued to be such, and we should differentiate too on a question you had earlier, that the army in its tactics, as I mentioned in my testimony, is using very careless tactics.

For example, they are now using reconnaissance by fire, which is an artillery reconnaissance, rather than patrol, and that does create an increased number, as we found in Vietnam, an increased number of civilian casualties.

So, to answer your question directly, the military solution I don't think is there on either side. You are not going to eliminate the insurgents militarily, just as we didn't do it in Guatemala when we did it in 1966 to 1969, but the death squads could operate and the army could go on fighting.

Mr. SOLARZ. Ambassador White.

NUMBER OF OPPOSITION FORCES

Mr. WHITE. Congressman Solarz, when the Reagan administration came into office, the figure that the Embassy was using of the number of guerrillas was 3,000 to 4,000. The Kissinger report refers to the guerrilla strength at 10,000 to 12,000 now.

That is in the 3 years that the Reagan administration has been in office, the guerrilla movement has roughly tripled. A good part of that is due to death squads. Your only choice is to be marched off with your thumbs tied behind your back, or identify with the guerrillas and get a gun, the choice for many young people is clear, and this explains in large part the increase in the numbers of the guerrillas, and the increase in the success of the guerrillas.

Mr. SOLARZ. I would have put it perhaps a little bit differently. I remember my first visit to Nicaragua, I was greeted when I got off the plane by a young woman who was responsible for North American affairs in the Nicaraguan Foreign Ministry, and I must say she was dressed in the latest fashions from Bloomingdale's.

Whatever else she looked like, she didn't look like a bureaucrat in a revolutionary government. I asked her how she had become involved with the Sandinistas. She had received her education at American University.

She told me it was very simple. That Somoza had killed her father, her mother, her four brothers, everyone in her family, and

she swore that she was going to devote the rest of her life to undoing his legacy.

My impression was this woman cared or knew as much about Marxism-Leninism as anyone in the Congress. I mean, it wasn't her thing, but she was determined to make sure that the legacy of Somoza was undone, and it would strike me that you must have very much the same kind of consequence of death-squad activity in Salvador.

If somebody's brother, or husband, or sister, or whatever is taken away and murdered in this fashion, others in the family must find their enthusiasm for the security forces somewhat diminished.

Mr. WHITE. I agree.

D'AUBUISSON'S INVOLVEMENT IN THE MURDER OF ARCHBISHOP ROMERO

Mr. SOLARZ. You have testified, Mr. Ambassador, about D'Aubuisson's involvement in the decision to assassinate Archbishop Romero. There is, I gather, some dispute about that, but let's for a moment assume that it is the case.

I must say, I believe it to be the case, based on information that I have received. What do you think the impact would be on El Salvador, particularly in the context of the elections which are now taking place, if the people of El Salvador believed that Roberto D'Aubuisson was involved in the decision to assassinate the archbishop?

Would this have an impact on the degree of support he would be likely to receive, or would this be a matter of irrelevance to most of the people?

If they had reason to believe this was true, what impact if any would it have on the election? Would anybody care to comment on that?

Mr. WHITE. Archbishop Romero was one of the most beloved figures in Central America. He was looked upon as the voice of the poor. If there were a truly free election, where the electorate did not believe that they would be killed, if they voted the wrong way, then indeed, the entire population of El Salvador, except for a small percentage, would cast aside and reject any person associated or involved in the death of Archbishop Romero.

I think that, given the control of the press and the terror which just completely pervades El Salvador, it is impossible to describe or assess the feelings of the campesinos or the worker.

Most probably, it would be if they can kill an archbishop, if Roberto D'Aubuisson can kill an archbishop and then be a candidate for President, well, you know, what chance do we have, and we had better go along with whatever is the drift, whatever is the control, because that is the way we have to stay alive and keep our families alive.

Mr. SOLARZ. Are you saying, then, it would be in D'Aubuisson's political interests to have it known that he was responsible for the assassination of the archbishop?

Mr. WHITE. No; clearly not, but I think that, given the terror that pervades El Salvador, I think it unlikely that the people would dare to rise up and reject him, because they know he is supported by many of the military commanders.

Mr. SOLARZ. Mr. Bereuter.

Mr. BEREUTER. Thank you, Mr. Chairman. I expressed some frustration before on concentrating on numbers of people killed and forgetting about the lives that are involved behind those numbers, but I believe I need to correct a misimpression or incorrect information, from Mr. Neier in a discussion with you a few minutes ago.

FIGURES FROM TUTELA LEGAL ON DEATHS IN EL SALVADOR

Citing a telegram from our Embassy of January 24, in response to questions that Mr. Solarz raised earlier about statistics that you were recently citing in your comments to Mr. Solarz from Tutela Legal, the violent statistics as to how many of those might be attributed to something other than death squads, from the 6 months from July to December 1983, they break down the total deaths of 2,639 in the following way:

Military encounters, 1,808; armed forces sweeps, 342; arrest and taken from home, 25; at home, 7; unknown, 456; taken out of a business, 1; for a total of 2,639.

And so, they conclude, for civilian deaths attributed to death squads, this is 19 percent that are clearly related to the activities of the death squads, the security forces, the ESA of all civilian deaths, 2,639.

Again then, citing Tutela Legal's figures for that 6-month figure, total of civilian deaths attributable to death squads and military forces, it appears to be, 505, July, 412; August, 116; September, 78; October, 88; November, 57; December, 32; going down progressively with one slight change midway through from 142 to 32 in that 6-month period on a month-by-month basis.

These are figures of the archdiocese through Tutela Legal, so our total is 505 that they clearly attribute to death squads.

Mr. NEIER. Congressman, what I said was that during the whole of 1983, they attributed to paramilitary squads without identification 24 percent of the killings, and I will be happy to supply you with their monthly reports, and you can count them yourself.

Mr. BEREUTER. But the military encounters clearly identified as causing deaths, the total of deaths is 1,808 for that 6-month period, and I suppose you could add some or all aspects of the 342 under the category of armed forces sweeps.

Mr. NEIER. Right.

Mr. BEREUTER. So there is a substantial number of certainly well over half of that total for the 6-month period, again citing their statistics.

Mr. NEIER. I said 76 percent were engaged in by the army during the course of the year, and they were a combination of military sweeps and the kind of pulling people from their homes.

AIR FORCE BOMBING OF CIVILIANS

Mr. BEREUTER. One of you gentlemen earlier mentioned deaths from bombing by Salvadoran pilots in Salvadoran planes trained by the United States. A little clarification. Are these the sweep operations that you are talking about?

Mr. NEIER. No; airplane deaths I wouldn't put in the sweep category. I will describe to you something that I heard from an official

of a highly respected international humanitarian relief agency in El Salvador. They provide relief services to displaced persons and they do so in circumstances in which the Government of El Salvador, of the Armed Forces, are advised every place where they go, when they go, and that advice is given three times in order to make sure that the Government knows about it. Displaced persons gather from the side of the road to receive medical attention and to receive medicines, and they say they have had to stop doing that because as they leave, as the advance leaves, the Salvadoran planes come in who attack the displaced persons who have gathered by the side of the road to receive medical attention.

That is what I view as Air Force killings and what I regard as not only deliberate attacks among civilians, but among the most disgraceful kinds of deliberate attacks on civilians that I have ever heard of any place.

Mr. BEREUTER. When, upon the best information you can get, did this tactic start to be used?

Mr. NEIER. I wasn't given a date when it started. I was told that it happened on several occasions during the 6-month period in which I focused upon. I then told Ambassador Pickering about this and Ambassador Pickering's response to me was: "I don't know about this, but I am not surprised."

Mr. BEREUTER. When did you make that contact with the Ambassador, approximately?

Mr. NEIER. January 11.

Mr. BEREUTER. Do you have any reason to believe that these activities are still ongoing?

Mr. NEIER. The agency that provided this medical service said that it had to discontinue that kind of medical service because the people would no longer gather to receive medical service and it could not endanger them by providing those medical services, so I suppose that particular thing is not ongoing because they no longer provide those services.

Mr. BEREUTER. Thank you for your information.

Mr. SOLARZ. Mr. Leach.

Mr. LEACH. Mr. Neier, returning to the subject of statistics again, it appears in the last 5 or 6 years that about 1 percent of the population of El Salvador has been killed and perhaps as much as 10 percent internally displaced.

Mr. NEIER. That is correct, and another 10 percent internally displaced.

EFFECTS OF U.S. SUPPORT FOR SALVADORAN MILITARY ON HUMAN RIGHTS ABUSES

Mr. LEACH. Would you care to make an assessment regarding whether active U.S. participation militarily and economically in El Salvador in support of the Government has caused these statistics to be higher or lower than they would otherwise have been?

Mr. NEIER. I really don't know whether they would have been higher or lower.

My impression is that, to the extent that the United States has tried to reduce human rights violations, it has essentially been ineffectual in doing so. I am not certain that the U.S. presence has

made any difference at all, but it is sheer speculation. I just don't know.

Mr. LEACH. Let us conjecture a little bit about the future. Let us say that the status quo continues for the next 2 to 5 years. Do you think such a continuation of the status quo will cause those statistics to go up or down in contrast to what a U.S. decision to give no more military aid might cause? Which approach is likely to lead to a limitation on the numbers of deaths?

TERMINATION OF U.S. MILITARY ASSISTANCE

Mr. NEIER. I suppose the question is really what alternative there would be to the current program of military aid. I suppose there would be one kind of result if it were say a termination of military aid tomorrow, and nothing in substitution for it.

I suppose it would be another kind of result if it was some kind of conditional withdrawal having to do with negotiations and settlement or anything like that.

If the United States simply terminated military aid, and nothing else happened, I have no reason to believe that the human rights violations would diminish in any respect.

Mr. LEACH. Would you concur with that, Ambassador White?

Mr. WHITE. Well, I believe that the provision of military equipment, sophisticated military equipment, particularly aircraft and attack helicopters, has certainly resulted in large numbers of civilian deaths that would not have occurred had we not provided these machines of war.

I point out to you that the Salvadoran military's last real success was in January 1981 before they had received any equipment from the United States at all.

SALVADORAN MILITARY'S PROBLEM IS LACK OF WILL, NOT LACK OF EQUIPMENT

The problem of the Salvadoran military is not lack of equipment. It is lack of will, but I think that, insofar as we continue to train these people, we are contributing to increased deaths because, although we say that we are trying to humanize warfare, we then stand and watch death-squad commanders be placed, we permit them to be placed in charge of American-trained battalions, thereby giving the lie to any hope that indeed these tactics will change.

Let me give you just one example. They have placed Lieutenant Colonel Staben in charge of the hot pursuit battalion—what is it called?

Colonel KING. He is in charge of the Arce battalion which was trained in Honduras. Lieutenant Colonel Ponce is in charge of the Belloso battalion, both death squad people.

Mr. WHITE. Both are death squad people. If we are going to have any kind of effect on this place, we should never permit that type of commander to be placed in charge of American-trained battalions.

Colonel KING. If I may add too, a moment, Mr. Congressman, the increase I think in military assistance will of necessity increase the amount of combatant deaths of civilians, because the scale of warfare will be expanded. When you are keeping it at the level it was

in 1981 and early 1982 of infantry fighting infantry, then you are killing on an eye to eye basis, whereas once it gets to a level of sophisticated air mobile concept which we are rapidly transferring to, it is going to be aircraft killing on the ground. It is much larger numbers as we know from Vietnam.

CRITICISM OF KISSINGER COMMISSION REPORT

Mr. LEACH. Let me ask one quick question of Ambassador White. You make some very tough references in your prepared statement to the Kissinger report. In reading one of your paragraphs, one is left with the impression that either you are charging that the Kissinger Commission was duped or that it is attempting to dupe the American public. Which is it?

Mr. WHITE. Well, I think that is up to the Kissinger Commission to respond to. In other words, clearly if the bipartisan commission was to do an adequate job, the administration had a direct responsibility to give the Commission all the information including, for example, the information that D'Aubuisson killed Archbishop Romero. The question is, Did they do that? If they did not inform the Commission of these facts, Then the Kissinger Commission, was clearly incapacitated from writing an adequate report.

If, on the other hand, they were given this information, the Kissinger Commission owes an explanation to us all why officially sponsored terrorism receives such light treatment.

ADMINISTRATION EFFORTS TO ENHANCE D'AUBUISSON'S STATURE

Mr. LEACH. Let me just conclude by saying that I find some of the paragraphs in your prepared statement very persuasive; others a bit less so. I would only stress, however, in light of how strongly you feel about Mr. D'Aubuisson, that it would be very unfair to this administration to identify principal figures in it with a concerted effort to enhance the stature of Mr. D'Aubuisson.

I have worked, as a critic of our policy in Central America, with the State Department, with people in the NSC, and with people at high levels of almost every Government agency involved with our policy.

I have never met anyone who has said to me that it is our hope that Mr. D'Aubuisson achieves greater power. There is no effort in this administration to enhance Mr. D'Aubuisson's stature. There is a clear preference for a whole assortment of other figures rather than Mr. D'Aubuisson.

Now, you might argue that whether they want to or not, some of their policies have been helpful to Mr. D'Aubuisson. Certainly, the extension of a visa to him was less than a perfect decision. But I think it would be very unfair to this administration to assert, based simply upon an extension of a visa, that it is its goal to enhance the stature of Mr. D'Aubuisson.

That assertion, I think, does not accurately reflect the intent and goal of everyone I have talked to in this administration.

Mr. WHITE. Mr. Leach, I only point out to you that indeed the Carter administration had him classified as a terrorist and the Reagan administration removed that classification and made him a person welcome in our Embassy, welcome in our country.

Now, the result of this was to enhance the reputation of D'Aubuisson to the point that he is today a contender for the presidency.

Mr. LEACH. That is true but it is also——

Mr. WHITE. Now, either it was intentional, in which case it was cynical and wrong, or it was unintentional, which in a sense is worse. You know——

Mr. LEACH. But you are belying other history. The rest of the history of the situation demonstrates clearly that it was the U.S. Embassy that stopped D'Aubuisson from becoming the head of their government and clearly——

Mr. WHITE. The greatest mistake we made. Once you admit him as a legitimate candidate, not to permit him to take office once he won that office was a mistake. Let him see that.

Once you have accepted him as a candidate, find out what he can do. The worst mistake——

Mr. LEACH. In other words, simply assert good is evil and evil is good.

Mr. WHITE. No, no, the worst mistake you can do is make him the power behind the throne, which is what he is today, and without being accountable for his actions.

Mr. LEACH. Well, my sense from talking to people in ARENA, though I have never met the major, is that there is a great deal of frustration over the fact that power was denied them by this administration, by this Government.

Mr. WHITE. I agree.

Mr. LEACH. And I think it is deeply unfair to taint this administration as one which is advancing the status of Mr. D'Aubuisson.

Now, it is fair to criticize one policy or another and it also fair to say you believe a visa shouldn't have been extended. But to taint the administration in this direction as far as you have done I think is not an accurate picture.

Mr. BEREUTER. Will the gentleman yield?

I would like to associate myself with your remarks and say that your experience and what you have heard and seen within the administration is exactly my own. Thank you.

Mr. SOLARZ. The gentleman from New York, Mr. Solomon.

Mr. SOLOMON. I have just a couple of questions.

What I am trying to determine, Mr. White, is where you are coming from and some of your philosophy and some of your criticism of the Reagan foreign policy.

Can you just tell me, for example, should we be involved in joint military exercises in Central and South America, for instance, with Honduras?

Mr. WHITE. No; my own belief is that we are advancing revolution in Honduras by about 5 years.

Mr. SOLOMON. So we should not, right? Should we be involved in covert activity in Nicaragua?

Mr. WHITE. If you mean by "covert activity" sponsoring——

Mr. SOLOMON. The way we are.

Mr. WHITE. Clearly it violates our solemn treaty agreements.

Mr. SOLOMON. Do you believe in covert activity at all?

Mr. WHITE. Yes, I do.

Mr. SOLOMON. Should we have troops in South Korea?

Mr. WHITE. Certainly.

Mr. SOLOMON. Should we deploy the intermediate range missiles in Europe?

Mr. WHITE. I don't really claim to be an expert on that, Congressman.

Mr. SOLOMON. Do you support our involvement in Grenada?

Mr. WHITE. I couldn't hear you.

Mr. SOLOMON. Do you support our involvement in Grenada?

Mr. WHITE. Involvement in?

Mr. SOLOMON. Grenada.

Mr. WHITE. Well, let me tell you this administration is great for sending messages, and they sent a message to Cuba and a message to the Soviet Union by Grenada, at least by their own account.

Let me tell you what the message was to the Salvadoran military from Grenada. That is, you don't have to fight and we will come in and do your fighting for you when the thing is ready to go down.

Mr. SOLOMON. Let me just sum up by saying that I also think it is interesting that we never read in the American press the kind of testimony that was given to us today by Mr. Mintle, whose presentation, in my opinion, was most sincere and was void of all politics and sarcasm, and I am sure this trend in reporting or nonreporting will continue tomorrow as the press ignores the Mintles and adoringly prints every politically motivated word of Mr. White. This is my opinion like you have your opinions, Mr. White, and I do at least hope that the press carries Mr. White's statements that he made here today written but not orally, praising President Carter's foreign policy, because I think everybody knows what President Carter's foreign policy was. It was a laughingstock throughout the world and I think that will tell where the credibility in all of this testimony here today lies.

That is all I have. Thanks.

Mr. SOLARZ. I must say not since Judge Clark came up before the Senate Foreign Relations Committee for his confirmation hearings as Under Secretary of State has there been such a withering cross-examination of the witness, but I think, Ambassador White, that you acquitted yourself with somewhat more distinction than Judge Clark did. Even if not, all of the members are fully satisfied with your answer.

INVOLVEMENT OF SECURITY FORCES IN DEATH SQUADS

I have a few questions which I would like to ask before we conclude the hearing. Ambassador White, you have spoken about the involvement of Major D'Aubuisson in the death squads and the role of the so-called Miami six. Are you in a position to describe for us the degree to which the security forces in El Salvador are involved with the operations of the death squads themselves, in view of the extent to which there are a number of people who contend that while the death squads undoubtedly exist, it is really impossible to know whether these are kind of free-lance outfits consisting of civilians who are acting for a variety of motives as compared to the extent to which they are run out of the security forces by people in the security forces, either during working hours or after working hours.

Can you enlighten us at all about the measure of involvement on the part of the National Police, the Treasury police, the National Guard in activities of the death squads.

Mr. WHITE. Congressman Solarz, without the involvement of the security forces, the death squads would not exist.

Mr. SOLARZ. How do you know that?

Mr. WHITE. We know it from intelligence reports that we acquire, we know it from CIA reports, we know it from defense attaché reports. The report that I refer to in here, the eyewitness account of D'Aubuisson ordering the death of the Archbishop, the same man goes on to say that the security forces indeed are the ones who compose the death squads.

Mr. SOLARZ. Do you believe there are any death squads which are not run out of the security forces, or which do not consist of people in the security forces?

Mr. WHITE. There are no reports of which I am aware, certainly not during my time, that would indicate that. In Guatemala there was developed a separate civilian death squad capacity. That was never true in El Salvador.

CAPACITY OF SALVADORANS TO END DEATH SQUADS

Mr. SOLARZ. Do you think the Government of El Salvador has the capacity to eliminate the death squads, if they want to?

Mr. WHITE. They did have. Whether they have today is questionable.

Mr. SOLARZ. Let me put it to you this way. When Vice President Bush was in San Salvador, he met with the 32 top commanders in the security forces and in the armed services, spoke to them I gather quite clearly about the importance we attach to the elimination of the death squads.

My understanding is that as a result of that meeting, there was a collective understanding, a decision as it were, that it was in fact in the interests of El Salvador for the death squads to be eliminated. If these 31 men, who are in charge of the security forces in the armed services, the brigade commanders, all of the key military people in the country, are in fact determined to end the death squads, do they have the capacity to do so or not?

Mr. WHITE. Yes, they do have the capacity.

Mr. SOLARZ. So you would reject the argument that even if these 31 are determined to get rid of the death squads, with the best of intentions and good will on their part, it may not be possible for them to do so, because you have a lot of low-level people, captains, sergeants, whatever, former security forces people who are operating on their own, who the top people do not even know about and could not eliminate even if they wanted to.

Mr. WHITE. No, that is basically untrue. There is undoubtedly some free-lance work, but we have report after report after report of the squads, security forces calling in, checking with their commanders, with the usual statement, you know, what shall we do with them, and the statement comes back, do what is necessary.

PRESIDENTIAL CERTIFICATION OF EL SALVADOR

Mr. SOLARZ. I want to ask those of you who choose to answer, your views about how we ought to respond to the administration's request for a substantial increase in the level of military assistance to El Salvador, and indeed how we ought to deal with the question of military aid to El Salvador in general.

As you of course know very well, the certification procedure which was adopted by the Congress, and which was subsequently vetoed by the President, was not very successful in bringing these killings to an end, some people believe because the President issued certifications that bore little relationship to reality. The question is, Where do we go from here?

One of the arguments that was used against the previous certification procedure was that it required the administration to make an all-or-nothing judgment, and that it was unrealistic to expect them to deny the certification to the extent that would result in the termination of all aid. What would be your reaction to a certification procedure in which we provided a certain amount of military assistance to El Salvador off the top—say equivalent to the amount authorized and appropriated for the current fiscal year—but made any additional military assistance contingent on a Presidential report that the Government of El Salvador had in effect first, eliminated involvement of the security forces with the death squads, and second, that the armed forces of El Salvador were respecting the applicable provisions of the Geneva Convention with respect to the treatment of civilians. The Presidential would report that the Government of El Salvador had achieved these objectives contingent upon the adoption by the Congress of a joint resolution of approval, before the additional military assistance could be provided.

In other words, the President under the terms of the law would only be able to submit the report if the Government of El Salvador had achieved the necessary results. It would not be sufficient for him to say they had made all sorts of efforts, they were trying their best, progress was being made, but the results would have to be achieved, and then once he submitted that report, the Congress would have to adopt a joint resolution approving the report before the additional aid could be provided. In the meantime the Salvadoran Armed Forces would not be completely cut off, since they would be eligible for a level of military assistance equivalent to what has been appropriated for the current fiscal year.

What would be your response to that kind of procedure?

Mr. Posner.

Mr. POSNER. In my testimony I tried to address that point. My reaction to your plan is that it may be even too complicated. Perhaps we could start with the supplemental appropriation for the fiscal year 1984, that you are about to consider and receive from the administration something in excess of \$170 million in military aid. It would seem to me that two things ought to be done in evaluating that. One is there is a percentage, a portion, 30 percent, of the existing fiscal year 1984 appropriation that is already in the pipeline but is not being spent because there is not a verdict in the churchwomen's case. That money is available, it is \$21 million

available to the Government of El Salvador as soon as they get a verdict in the case.

Now Ambassador Pickering told me in October, and he told our representatives earlier this month, that that would be a reality within the next few months, so I think the supplemental aid ought to be packed up behind the \$21 million.

Second, I think that there ought to be an evaluation of the supplemental appropriation, and there ought to be conditions imposed. I list nine in my testimony. There are probably dozens more that we could come up with. It seems to me that rather than having complicated reports, we ought to look to concrete unambiguous signs of progress.

Mr. SOLARZ. That does not respond to the question as I framed it. We have got to decide who makes the judgment.

Mr. POSNER. I think the Congress has to make the judgment.

Mr. SOLARZ. How?

Mr. POSNER. I think that you can appropriate a certain amount of money this year, or next year, and say that x percentage of that assistance will be held up contingent on certain steps being taken, so the burden is on the Salvadoran Government.

Mr. SOLARZ. You would like to skip the stage of a Presidential report completely?

Mr. POSNER. Exactly.

Mr. SOLARZ. Would anybody else care to comment?

Colonel KING. It seems to me, Mr. Solarz, that the Congress is trying to work with insufficient information in regard to the military assistance. You are told that you have to furnish so many millions of dollars for military assistance or the Salvadoran Army is not going to be able to fight, and that is just not true. It seems to me the Congress should request some listing or line item from the Department of Defense which spells out how these millions are going to be spent to improve human rights and the performance of the army. Certainly we keep talking about reforming the Salvadoran Army. Yet at the same time they go on losing and projecting a stalemated war we give them more money.

Mr. SOLARZ. Colonel King, there are three threshold questions the Congress has to answer. Is there a case to be made for additional military assistance?

Colonel KING. I am saying I do not believe there is.

Mr. SOLARZ. I want to get into that in a minute, but separately. The second threshold question is assuming there is a case for additional military assistance or for any military assistance, should that be made contingent on some kind of finding with respect to human rights, and if so, what should it be made contingent on, and how should the finding be made, and I suggested a way of dealing with the problem, and I am interested in your response.

Colonel KING. I would add one dimension to it. You are suggesting it only on the certification for human rights. I am suggesting it be an additional certification for performance of the army. You just do not give them money.

Mr. SOLARZ. Mr. Neier.

Mr. NEIER. I have no competence on the question of the military need. Addressing the human rights issue per se, I would say that the basic position we have is that present U.S. law, 502(b), prohibits

the aid. If one is determined to ignore that, and provide military aid under any circumstances, then I think the method that you propose makes a great deal more sense than the previous certification plan, because the administration would become accountable to Congress for the contents of its report.

Mr. SOLARZ. Ambassador White.

AID CONDITIONAL UPON NEGOTIATIONS

Mr. WHITE. Congressman Solarz, I like your formulation, and I would also have the Congress support negotiations by conditioning further military to El Salvador upon serious negotiations by both sides, because the left has indicated they are willing to negotiate, and the Government of El Salvador has referred to, and that is crucial.

Mr. SOLARZ. You cannot make it conditional on serious negotiations by both sides, because that would in effect give a veto over the aid to the opposition which could refuse to seriously negotiate, simply as a way of preventing the aid from going forward to the Government.

Mr. WHITE. Excuse me, but the point is that the left has indicated its willingness to negotiate, and the Government has indicated its unwillingness to negotiate.

Mr. SOLARZ. There have been meetings between the peace commission and the representatives of the opposition. There were two. Not much came out of it, but nevertheless they did have a meeting where a variety of different proposals were discussed.

PARTIAL AID WITHOUT RESTRICTIONS OR TOTAL CONDITIONALITY

I would specifically like to ask Ambassador White and Mr. Neier whether you find acceptable as it were the notion that we should provide a certain amount of military assistance to the Government of El Salvador off the top without any conditions, which was part of the proposal I put forward, or whether you think the conditions ought to apply to every dollar of the aid.

The reason I had suggested giving them a certain amount off the top was to deal with the criticism that had been made in the past that this forces the administration to certify even when the facts do not justify it, because they are never going to permit a total cutoff. This way the Salvadorans would get something, although not nearly as much as the administration wants, if they do not comply with the conditions, but I want to pin you down on this.

Would you prefer to see a certification in which they get a certain amount off the top without conditions, or do you think the whole kit and caboodle should be subjected to the same conditions?

Mr. WHITE. If you were convinced that this is the most practical way to go about it, then I would certainly support that. I take it you advocate this as a pragmatic approach.

Mr. SOLARZ. Precisely.

Mr. WHITE. Which seems to me to make a lot of sense. I do want to point out that in my view, military assistance is simply going to kill more and more Salvadorans, and that the military assistance is probably roughly divided between the Government and the guerrillas.

Mr. SOLARZ. If we do adopt a procedure like this, do you think it is important for the language in the certification or report involving the death squads to call for the elimination of the death squads, or do you think it would be appropriate or sufficient to talk about progress toward the elimination of the death squads, because of course one of the arguments the administration will use is that it is unfair and unrealistic to expect them to eliminate this overnight. The important thing is that progress continue to be made, and therefore we should not require the total elimination. How do you and Mr. Neier respond to that?

Mr. NEIER. Since I agree with Ambassador White, that those 31 men gathered with Vice President Bush could call a halt to death squad activity, I think it is entirely realistic to say that they should be eliminated entirely, because I do not think we are seeing private enterprise at work without the participation of those 31 men.

On your basic question, essentially what you are saying is this. Look, if we just have a certification procedure on an all-or-nothing basis, the administration is going to certify no matter what. It is a kind of cynical recognition that they are going to do that. I am as cynical as you are with respect to that. Therefore on that basis, clearly the measure that you propose is preferable.

I do not think that I care to abandon the view that ultimately the United States ought to stick to its basic text with respect to human rights violations which is section 502(b) of the Foreign Assistance Act.

NEGOTIATIONS AS A CONDITION FOR CONTINUED MILITARY AID

Mr. SOLARZ. Ambassador White, you have indicated that you favor a negotiated settlement of the conflict. You have pointed out that the Government has not been very receptive to the idea of negotiations. At the same time you have also called, as I understand it, for elimination of military aid to the Government completely.

It is hard for me to envision circumstances under which you could get a negotiated settlement, if the guerrillas felt that it was only a matter of time before the Government collapsed militarily. Most people seem to think that if we cut the Government off completely, that in fact it would only be a matter of time before they fell, that it would not only be politically demoralizing but militarily debilitating, and if that is the case, can you realistically hope to get a political settlement if we cut off completely the Government from military assistance?

Mr. WHITE. I support Colonel King's assessment, that the guns we are sending do not do really very much to change the military equation. The problem we face is political and not military. You have the left willing to negotiate, publicly stating they will negotiate without previous conditions. I am no admirer of the left, but realistically they are a force with which we must deal.

We have the flat-out statement of President Magana that he would rather lose American assistance rather than condition it on human rights.

Mr. SOLARZ. I was one of those who strongly advocated, as one of the provisions in the previous certification, a reference to the need for an unconditional dialog, and I have just come back from El Sal-

vador, and I have got to tell you that the discussions which have taken place between the Government and the opposition would meet a fair interpretation of unconditional dialog, in the sense that both sides were free to put whatever they wanted on the table, the opposition put its proposals on the table, the Government put its proposals.

It was a dialog to the death. I mean neither side really paid much attention to what the other side proposed, but it was unconditional in the sense that each side was free to say whatever it wanted to say, and in that sense there has been a change in the Government's position.

Before it said it would only sit down with the opposition to talk about their participation in the election, wouldn't even listen to anything else. In reality, it turned out that they did listen to a proposal for power sharing. They asked questions about it.

They rejected it, of course, out of hand, but there is no question that an unconditional dialog in the sense that we previously defined it took place.

What I think it illustrates is that unconditional dialogs are not very productive when neither side is prepared to make fundamental changes in its negotiating position.

Mr. WHITE. The Government will change its negotiation position only when the Reagan administration is clear that they support an end to the fighting and unconditional negotiations. Until that happens, nothing will happen.

LACK OF WILL TO FIGHT

Mr. SOLARZ. Colonel King, you have made the point that the real problem from a military point of view is presumably not so much the shortage of arms and ammunition but the ability of the command leadership to instill in its troops a will, desire, and reason to fight and possibly die for the present Government.

To the extent that this is the case, is there anything we can do about that?

Colonel KING. Yes, I believe there is, but certainly sending them more money is not going to do it.

It seems to me what we need to do is to establish the fact that there is a level of military assistance which the United States is not prepared to go beyond. We need not announce this to the world, but certainly the military should be aware that they have to make certain changes in their organization for battle and their command and control and those point I mentioned in the testimony, or that if those things are not happening, then there is not going to be an unlimited amount of money, and I think if that is done, knowing the Salvadoran military as I do, I think you would get some reaction out of them.

Mr. SOLARZ. I was just in El Salvador, and met with their military people and our military people. I was at the U.S. Southern Command Headquarters in Panama. It is very clear the war is not going well.

Colonel KING. It has been a stalemate for over 2 years.

Mr. SOLARZ. The guerrillas have increased the areas under their control. They are beginning to move to much larger units. The

recent attacks against the fourth brigade in Paraiso and the destruction of the bridge are manifestations of the improvement of their positions vis-a-vis this Government.

On the other hand, it does appear at the face of it that the government forces could benefit from certain kinds of additional military equipment, particularly those that would give them more mobility. I quite agree with you that additional military equipment is not a sufficient condition for a successful resolution of the conflict, but is it not perhaps a necessary condition?

Colonel KING. Some additional equipment, yes, it is a precondition. But you don't have to go \$200 million. You can go far below that and still maintain the combat capability of the Salvadoran army.

Mr. SOLARZ. What do you think the consequence would be militarily if the Congress cut off El Salvador completely?

Colonel KING. Well, if you cut them off from all military assistance, I would say that the army would probably cease to fight within 3 to 6 months.

Mr. SOLARZ. If that were likely to be the case, would the opposition have any incentive to negotiate, or would they simply wait for the collapse to take place and then pick up all the marbles?

Colonel KING. Well, I talked to the fourth commander guerrilla leader in San Jose and that is exactly what they are doing. They think the army will collapse sometime in the next 60 to 90 days.

Mr. SOLARZ. My impression is that they do have that belief notwithstanding an incentive to negotiate, because I think their feeling is that if the army collapses, President Reagan will send in the Marines, thereby depriving them of the victory that would otherwise be theirs.

Colonel KING. They certainly are afraid of that. They certainly fear we are going to intervene both in Honduras and El Salvador.

Mr. SOLARZ. From a military point of view, based on your experience down there, on what basis do you think we can make a judgment as to what kinds of military equipment they can use that they don't now have, and how much military assistance we should be providing?

Colonel KING. Well, I believe we can make the judgment on the basis—in terms of ammunition and past expenditures, the basic load they have in country—I think in the area of equipment, we can make a need for mobility—I am not talking about helicopters.

I am not a firm believer in giving peasant armies helicopters. They can't maintain them, don't know how to use them, so Americans have to do that, and that increases our advisory and maintenance capacity.

Trucks are necessary; that is why a level should be established. You in the Congress should see some listing so that can be established.

Mr. SOLARZ. Your feeling is that additional helicopters are not warranted by the situation?

Colonel KING. I think it is a quick fix on the part of the advisory people. I say this not as a critical comment but on their ability to limit one company. However, they have an airborne brigade, Mr. Congressman, which they have had for a year, which is never used.

It is guarding the air base at Ilopango. They can strike with the air brigade doing the same thing with choppers, if they wanted to.

Mr. SOLARZ. If they did that, then the air boys would be subject to attack again.

Colonel KING. No; they have two battalions of National Guard that should also be able to defend it.

INADEQUATE MORALE AND MOTIVATION

Mr. SOLARZ. My impression was that the main problem that the Salvadoran military faces is not so much a shortage of arms or ammunition.

Colonel KING. No.

Mr. SOLARZ. But ineffective leadership and inadequate morale and motivation.

Colonel KING. Exactly.

Mr. SOLARZ. Most of the soldiers, I gather, leave the Army when their enlistments were at an end, whereas most of the guerrillas remain on active duty.

Colonel KING. They serve so long as they are alive or can stand up.

Mr. SOLARZ. Is that primarily because the guerrillas are motivated and the soldiers of the Army are not?

Colonel KING. I think that is part of it, yes.

Mr. SOLARZ. What else is part of it?

Colonel KING. I think the other part of it is the guerrilla sees the chance for betterment in his life if he can win and the soldier knows he is going to go back to exploitation and poverty when he gets out.

Mr. SOLARZ. In a war like this, ultimately factors of motivation and leadership are really what determine the outcome.

Colonel KING. I believe so.

Mr. SOLARZ. Much more so than the level of equipment.

Colonel KING. Exactly.

Mr. SOLARZ. And if that is in fact the case, and if the guerrillas are clearly motivated, for good reasons or bad, to take the kind of risks and to endure the kind of suffering which an effective guerrilla force needs, but the Army is not because the soldiers have been press ganged into the Army, they leave as soon as their enlistments are over, they surrender the minute they are threatened, they are unwilling to risk their lives in combat. If that is the case, is there anything that really can be done? Because that itself is the product of fundamental factors in their society. How do you deal with that?

Colonel KING. I believe that is the case right now. The only positive answer I could offer you would be that there are possibilities within the Salvadoran Army of leadership. There are some leaders in the Salvadoran Army at the rank of major and a couple of lieutenant colonels who could provide the kind of combat leadership that would let them win. Unfortunately, there is also at the top level, in the Estada Major, officers who control the military who are not capable commanders and are not going to become capable commanders.

Mr. SOLARZ. Do you think your argument is that a lot of this assistance won't help?

Colonel KING. Exactly. It will continue to be a stalemate.

Mr. SOLARZ. Do you think it will hurt?

Colonel KING. Yes, it will hurt in terms that many more noncombatants and a lot more soldiers will be killed on both sides. Those 15-year-olds will be killing each other in greater numbers for no change in the status of the war. It is still going to be a stalemate.

INCREASED COMMAND AND CONTROL

Mr. SOLARZ. Do you think if the necessary changes are made in terms of command and control bringing people with demonstrated leadership capacity into positions of responsibility and the like, that under those circumstances the additional military aid should be provided, or would it be unnecessary then?

Colonel KING. I think the amounts that the administration is asking for, the \$200 million, would certainly be surplus to what you would need. You could do it with less money if you had some capable command and control and some capable motivation within the military.

Mr. SOLARZ. When we get a detailed breakout from the administration, which I assume we will, on what this money is supposed to be used for, I would hope that you might make yourself available.

Colonel KING. I would be most happy to.

Mr. SOLARZ. To review it with some of us, so we can make a determination.

Gentlemen, I want to thank you all very much. You have been kept here for a rather long period of time. Some might say this was an example of prolonged detention without trial. I apologize if your fundamental human rights were abused, but I am going to certify that this committee respected your rights, and let me tell you that I appreciate, as I know my colleagues do, your willingness to share your views with us.

I think this has been a very illuminating hearing. It should pour light on the problems we are going to have to deal with, and I thank you for coming. The hearing is adjourned.

[Whereupon, at 1:35 p.m., the subcommittees adjourned.]

APPENDIX 1

DEPARTMENT OF STATE REPORT ON THE SITUATION IN EL SALVADOR, JANUARY 16, 1984

EXECUTIVE SUMMARY

El Salvador is frequently analyzed as a clash between extremes of left and right. The history of El Salvador provides ample data to support this perspective: social injustice, governmental irresponsibility, political repression, militarism, and brutal fanaticism in the name of "order," "revolution" and sometimes plain criminality.

Yet this view omits a vital new element: the reformist coup of October 1979 and the subsequent coalition governments have created an alternative to the dilemma of choosing between the extreme left and the extreme right -- an opportunity for genuinely democratic and progressive reform.

The emergence of this new democratic alternative did not, of course, eliminate the power of extremist factions of either left or right. But El Salvador's history since 1979 is fundamentally the story of how efforts to build democracy have fared against the weight of traditional problems and opposition from violent and radical extremes. And it is the existence of this alternative that has made possible continued U.S. assistance to El Salvador.

This report assesses the situation in El Salvador and our efforts to fulfill the resolve we share with the constructive forces in that nation: to end the reprehensible activities of the violent right and the violent left and to bring the democratic alternative to fruition.

Key Findings

1. In 1980, after decades of social inequity and repression, a joint Christian Democratic-Armed Forces government succeeded in beginning major economic and political reforms. These reforms continue in force, although their benefits have been reduced by violent resistance from the extreme right and by relentless guerrilla warfare from the anti-democratic left abetted by Cuba and Nicaragua.

2. The most profound reform has been the opening up of the political system and the restoration of government accountability through elections. This new political dynamic began with elections for a Constituent Assembly in March 1982. Six parties, from the political right to the center-left, fielded candidates for the sixty seats in the Assembly. Some 1.5 million Salvadorans voted; only the extreme left refused to participate. The elections were administered by an independent Central Elections Council. According to the eyewitness accounts by invited observers and international journalists, the elections were fair, open and representative.

3. The March 1982 elections produced an Assembly in which no party held an absolute majority, but which proved capable of drafting and approving a modern, liberal constitution. A multi-party Government of National Unity, named by the Constituent Assembly, has functioned slowly but successfully by consensus. The land reform and the other reforms continue.

4. Continued abuse of human rights remains a central problem, despite efforts to end violence from the terrorist right as well as the guerrilla left. Non-combatant deaths have declined steadily since a peak in 1980. The government's cases against persons charged in the murder of four U.S. citizen churchwomen is moving toward trial; a key arrest has been made in the case of the murdered U.S. labor advisors; and the case of murdered U.S. citizen Michael Kline is expected to go to the trial stage within a month.

5. Specific measures have been taken to control the death squads and to exert stricter discipline over members of the Armed Forces.

6. Cuban and Soviet bloc assistance channeled through Nicaragua has permitted the various Salvadoran guerrilla forces to coordinate their activities, accumulate stocks of war materiel and upgrade their fighting capabilities. Recent reports that Nicaragua may be reducing direct support for the Salvadoran guerrillas or closing off their command-and-control center in Nicaragua are not borne out by the evidence.

7. The new constitution, which entered into force on December 20, 1983, establishes a republican, pluralistic form of government; strengthens the legislative and judicial branches; improves safeguards for individual rights; and protects the legal bases of the land reform.

8. Presidential elections will be held on March 25, 1984. Six candidates have begun to campaign for the presidency. Deputy and mayoral elections are planned for early 1985.

9. The Government of El Salvador is seeking a political solution to the armed conflict through a dialogue on democratic elections within El Salvador and participation in the regional Contadora process. El Salvador's Peace Commission remains prepared to meet with the armed left and its political associates to discuss their participation in free elections, including physical security for candidates and access to the media.

10. Although plagued by problems and violence, the land reform is making steady progress.

11. Major efforts are underway to ensure more effective functioning of the criminal justice system. The new constitution and the efforts of the Salvadoran legal reform commissions mark greater judicial independence. The Government of El Salvador and United States are developing programs to improve judicial protection and investigative capacities and to modernize penal and evidentiary codes.

12. El Salvador's economy faces critical difficulties. Since 1979, gross domestic product has fallen by 25 per cent in real terms and exports have dropped by 40 per cent. During this same period, direct damage to the economy from guerrilla sabotage is estimated at more than \$800 million. Unemployment and underemployment are high, and the provision of basic public and private services has been seriously disrupted.

13. U.S. economic assistance is vital to El Salvador's economic stabilization, recovery and social equilibrium. For the longer term, the Caribbean Basin Economic Recovery Act opens up important opportunities for Salvadoran exports in horticulture, processed agricultural goods and light manufactured goods.

14. The conflict on the battlefield remains a stalemate. Government forces, required to allocate major resources to static defense, are able to deploy anywhere in the country, but lack the manpower and mobility to deal a decisive blow to the guerrillas. The guerrillas occasionally are able to cause great damage with raids in support of their strategy of military, political and economic attrition. Continuing Cuban and Nicaraguan support has enabled them to improve their capabilities in communications and demolition. Although restructuring will improve the military's performance, the stalemate is unlikely to be broken without substantially increased resources.

15. The military strife has displaced nearly ten per cent of El Salvador's population. Although approximately 75 per cent of the displaced receive Salvadoran government aid, more should be done to ameliorate their situation.

I. INTRODUCTION: RECONFIRMING OUR JOINT RESOLVE

On November 30, 1983, the President withheld approval of H.R. 4042, an enrolled bill that would have made the provision of continued military assistance to El Salvador dependent upon periodic certifications regarding El Salvador's adherence to certain standards of performance.

In announcing this decision, the White House spokesman gave particular emphasis to the President's continued commitment to the objectives addressed in the certification legislation: the protection of human rights, economic and political reform, the holding of elections and progress in prosecuting the cases of murdered U.S. citizens. He also announced the President's decision to provide factual reports to Congress and the American public about the situation in El Salvador in lieu of certification.

Referring to a speech delivered November 25, 1983, by the U.S. Ambassador to El Salvador, Thomas Pickering, condemning the actions of the violent right, the White House spokesman said:

"Working with the leadership of the Government of El Salvador, we will reconfirm our joint resolve to take whatever action is necessary to help the Government of El Salvador to end the reprehensible activities of the violent right as well as the violent left." (emphasis added)

This report, the first that the President has directed be provided periodically to the Congress and the American public, is an assessment of the situation in El Salvador and a public accounting of our efforts to give renewed meaning to this resolve.

This report addresses all the elements previously required under Section 728 (d) and (e) of the International Security and Development Cooperation Act of 1981: Salvadoran efforts to comply with internationally recognized human rights; to improve control over its armed forces; to make progress on land and other economic and political reforms; to conduct elections and dialogue to achieve a political settlement; and to investigate the murders of U.S. citizens and bring to justice those responsible.

In order to provide the Congress and the United States public a comprehensive, current assessment of the situation in El Salvador affecting U.S. foreign policy objectives, the report also covers:

- the historical, social, economic and political sources of conflict;
- Cuban and Nicaraguan activities;
- guerrilla terrorism;
- Salvadoran efforts to reform the criminal justice system and U.S. support for the administration of justice;
- the current economic situation and U.S. assistance programs; and
- the security situation, including military activity, requirements for external assistance and the impact of war on refugees and displaced persons.

II. A LEGACY OF VIOLENCE AND SOCIAL INEQUITY

In the late 1970's, El Salvador began to experience increasingly intense civil disturbances and violent political protest. The proximate cause, against the background of El Salvador's long legacy of economic underdevelopment and social inequity, was the social unresponsiveness of government after government, aggravated by destabilizing activities and events supported by Cuba and Nicaragua. Popular demands for change grew throughout the 1960's and 1970's not because there was no economic progress, but for the opposite reason -- because rapid economic growth placed overwhelming demands upon traditional institutions incapable of responding to them.

From the establishment of the Central American Common Market in 1960 until 1979, the economy of every country in Central America grew faster than that of the United States. Annual real growth rates averaged from 4.4 percent in Honduras to 6.3 percent in Costa Rica. In El Salvador, growth averaged 5.3 percent. Real per capita growth was nearly 2 percent per year. Capital formation in relation to gross domestic product rose from 10.5 percent in the 1950's, to 13 percent in the 1960's, to near 20 percent in 1970-78. Although substantial underemployment existed in both rural and urban areas, unemployment was relatively low. For twenty years prior to the 1973 oil shock, inflation averaged only about 1 percent a year.

This rapid growth was accompanied by increased social and political tensions in El Salvador, providing a fertile basis for exploitation by those who favored a Marxist-Leninist approach for three reasons:

- Control of the economy by a numerically small elite kept the fruits of growth from being widely shared;
- The Army's rejection of the results of the 1972 presidential elections conveyed the message that peaceful political change was not possible; and
- Recourse to violence became deeply ingrained on both the extremes of the political left and right.

Policies to address these causes of conflict in El Salvador -- social inequity, political underdevelopment and violence -- are central to U.S. efforts to help El Salvador develop peaceful solutions to its problems.

A. The Political Background: 1932-1979

On January 22, 1932, a violent uprising inflamed by Augustin Farabundo Marti and his embryonic Communist Party led to a chain reaction of massacres and brutalities in which some ten thousand people died. (Some reports cite as many as thirty thousand deaths.) The savagery of 1932 was interpreted by Salvadoran authorities to mean that only repressive governments could maintain order. The army became El Salvador's strongest institution; military commanders, almost all of middle class or more humble origins, dominated succeeding governments in concert with the landed wealthy.

During the 1940's, 1950's and 1960's, political violence was rare. Sustained economic growth (averaging more than 5 percent a year) stimulated urban growth and a new middle class, which in turn spawned new political parties. In 1964, Jose Napoleon Duarte, one of the founders of the Christian Democratic Party (PDC), was elected Mayor of San Salvador. After additional electoral success in 1968, Duarte ran in the 1972 presidential elections. Guillermo Manuel Ungo of the small social-democratic National Revolutionary Movement (MNR) was his running mate. Most observers believed Duarte had won the vote, but the candidate of the governing National Conciliation Party (PCN), Col. Arturo Armando Molina, was proclaimed President. After an attempted opposition coup within the army failed, Duarte was arrested, beaten and sent into exile.

President Molina increased public services and in 1976 attempted a minor land reform by expropriating 56,000 hectares in the Department of Usulután, but he failed to overcome conservative resistance to change. Unemployment and income maldistribution were exacerbated by rising energy costs, unstable coffee prices, and a severe drought.

Political strains continued to increase. The validity of the election of Gen. Carlos Humberto Romero as President in 1977 was disputed. That year, Foreign Minister Mauricio Borgonovo was murdered by leftists; Father Rutilio Grande, a priest known for his support of working-class causes, was assassinated by rightists. Opposition parties boycotted the 1978 National Assembly elections. Violence and counterviolence, already endemic, escalated steadily thereafter. ORDEN, a largely rural organization with close ties to the local security forces and to the White Warriors Union, a clandestine group of far rightists, assassinated many teachers and priests.

On the extreme left, youthful radicals denounced the electoral approach of the Moscow-line Communist Party of El Salvador (PCES) and broke away to seek an armed path to power. In the late 1970's, these breakaway groups carried out several spectacular embassy seizures and kidnapped or murdered Salvadoran, U.S., European and Japanese businessmen, the Swiss Charge d'Affaires and the Ambassador of South Africa. Terrorism and kidnappings enabled the violent left to obtain \$50-100 million in ransom and protection payments during this period.

The growing militancy of the violent left moved Archbishop Romero to warn in August 1979:

"When I returned from Rome in April, I found their bombs in the Cathedral. Our popular groups have been taken over by the far left. They want the Church to support everything, not only justice but all their strategies."

The largest of the radical left groups was the Popular Liberation Forces (FPL). It was founded in 1970 by Salvador Cayetano Carpio, the Cuban-trained former Communist Party Secretary General, who is said to have committed suicide in April 1983 in Managua after admitting that he had ordered the murder of a key lieutenant.

While the FPL advocated violence as part of a "prolonged war" strategy, the People's Revolutionary Army (ERP), a group of young Maoists and Castroites headed by Joaquin Villalobos, called for attacks on public officials to spark an immediate popular revolution. The Armed Forces of National Resistance (FARN) splintered from the ERP in 1975 due to internal party disagreements.

The FPL helped to organize a broad coalition of worker, student, and teacher groups into the Popular Revolutionary Bloc (BPR). The FARN attracted several peasant organizations and unions into the United Popular Action Front (FAPU). The 28 February Popular League (LP-28) organized by the ERP began as, and remained, a largely student-based organization.

El Salvador's violent left received a major psychological boost in July 1979 when the Nicaraguan National Guard dissolved under pressure, the Somoza dynasty collapsed and the Sandinistas assumed power. The possibility of a guerrilla military victory in El Salvador suddenly seemed more real. Moreover, having backed the Sandinistas with men and money, the guerrillas were now to receive Nicaraguan support for an escalated armed struggle in El Salvador.

As the 1970's drew to a close, traditional Salvadoran political and social relationships were disintegrating and the nation was fragmenting into armed camps. The economic elite was split between advocates of harsh repression and moderate reform. Gen. Romero had neither the will to impose, nor the wisdom to undertake, reforms. Except for scattered individuals such as the still exiled Duarte, there was little credible leadership to meet the challenge.

B. The Social Background: Concentration of Land Ownership and Population Growth

Until the late 19th century, rural land tenure was predominantly communal although large haciendas existed. With the introduction of highly profitable coffee cultivation during the 1880's, private landowners (with government concurrence and assistance) began to absorb communal lands, creating a large class of landless peasants. Most became migrant workers who were fully employed only during the harvest season. Better-off peasants owned or rented small plots for growing their own food needs, or found permanent employment as sharecroppers. This consolidation into fewer farm units continued during the 20th century with increased sugar, cotton and livestock production.

In 1971, about 40 percent of the total land was concentrated in the hands of about one percent of the owners. Seventy percent of all farmers were sharecroppers, laborers or owned fewer than five hectares (12.5 acres) of land.

This trend toward concentration of land into large holdings occurred as El Salvador's population increased from 783,000 in 1900, to 2.6 million in 1960, to 3.5 million in 1970, and to about 4.8 million in 1980. Population density reached 225 persons per square kilometer (580 per square mile), three times the figure for any other country on the Western Hemisphere mainland. The pressure on the labor market has grown and will grow into the foreseeable future. Salvadoran migration into relatively land-abundant Honduras was a major factor leading to the 1969 war between the two countries.

Urbanization is pronounced. The urban population increased from 25 percent of the total in 1950 to 39.5 percent in 1980. The total urban population is expected to increase from 1.9 million in 1980 to 3.2 million by 2000.

Demographic pressures also caused immense pressure on El Salvador's resource base. Soil loss, deforestation, pesticide runoff and water pollution became serious problems. In metropolitan San Salvador, more than half the total population lives in overcrowded inner city tenements or in illegal peripheral subdivisions. Even in urban areas only 49

percent of the population has access to piped water; less than two percent of the rural population has access to sewerage. In 1977, water-related diseases caused 4,200 deaths and the economic incapacitation of 150,000 people.

C. The Explosion: 1979-1982

On October 15, 1979, a group of reformist military officers overthrew the Romero government. A broadly based coalition government was created, but failed to function. In January 1980, the Armed Forces and the Christian Democratic Party formed a government together which, with some reshuffling, governed until elections for a Constituent Assembly took place in March 1982.

This period saw the initiation of a major land reform, bank nationalization, nationalization of the marketing of coffee and sugar, development of stronger campesino organizations in farming areas and, most importantly, reactivation of political parties and the holding of free and honest elections.

The period also witnessed levels of violence unknown since the 1930's. Violence against civilians, already on the increase, crested. The growing military strength of the guerrillas, expressed in violence and terrorism, provoked a strong reaction. At the same time, the sweeping reforms begun in March 1980 brought some on the extreme right to respond with violence against the government, moderates and the left.

During 1980 and 1981, Cuban and Soviet bloc assistance channeled through Nicaragua permitted the Salvadoran groups on the extreme left to coordinate their activities, accumulate massive supplies of war materiel and upgrade their fighting capability. In January 1981, the guerrillas launched a "final offensive" consisting of combined military operation and a call for a popular uprising. The appeal for popular support was generally ignored, and the Salvadoran Armed Forces beat back the guerrillas' military initiative in short order. Following this setback, the guerrillas returned for a time to skirmishing and night-time bombings.

In May 1981, the guerrillas began a strategy of "guerra prolongada" (prolonged war), which included a gradual build-up of strength and materiel supplied through Nicaragua, concentration of military action in rural districts punctuated by high-profile sabotage operations, and increased targeting of factories, bridges, agricultural installations, the transportation system, the electrical system, water pumping stations and other economic infrastructure. This strategy continues today, complemented by a political/diplomatic effort calling for power-sharing negotiations with the Salvadoran government.

D. Nicaraguan and Cuban Activity

Havana gave support and counsel but relatively little tangible assistance to revolution in El Salvador before the July 1979 Sandinista take-over in Nicaragua. But, the overthrow of Somoza suggested to Havana that a national army could be beaten by an armed uprising; and, perhaps more importantly, Nicaragua also provided Cuba with a base from which to begin supplying regional guerrilla movements. This was the beginning of a steadily expanding partnership between Cuba and the Sandinistas in exporting subversion to El Salvador.

While the Sandinistas were consolidating their hold in Nicaragua, Havana focused increased attention and resources on El Salvador. Castro urged that the separate leftist groups join forces in return for Cuban and Soviet bloc support.

In December 1979, to overcome differences over tactics, Castro hosted the leaders of the leftist terrorist groups and the Salvadoran Communist Party in Havana. This meeting produced agreement to form a coordinating committee, as was announced publicly in January 1980. It was also at this meeting that Castro reportedly outlined his strategy: El Salvador and Guatemala would be "next," with Honduras to be used as a corridor for the transit of guerrillas and arms. In November 1980, the various leftist guerrilla groups united their efforts under the banner of the Farabundo Marti National Liberation Front (FMLN). Earlier that same year, the Revolutionary Democratic Front (FDR) was established to serve as an umbrella organization for civilian Marxist and non-Marxist supporters of the guerrillas.

Having achieved unified command for the extreme left, a communist-led "broad coalition," and some non-communist international support, Cuba moved to increase the military strength of the Salvadoran guerrillas with full but discreet support from the Soviets and the Soviet bloc including Bulgaria, East Germany, Poland, Vietnam and Ethiopia.

The Cuban/Soviet bloc military supply operation used western weapons (some from Vietnam) for "cover" and covertly shipped weapons through Cuba and Nicaragua to arm the Salvadoran guerrillas for their intense but unsuccessful "final offensive" in January 1981. It was this offensive that led President Carter to authorize the delivery of arms and ammunition to El Salvador for the first time since 1977. The U.S. government announcement on the resumption of arms deliveries stated that this military aid was to "support the

Salvadoran government in its struggle against left-wing terrorism supported covertly with arms, ammunition, training, and political and military advice by Cuba and other communist nations."

Throughout 1981, Cuba, Nicaragua and the Soviet bloc aided in rebuilding, rearming and improving the Salvadoran guerrilla forces, which expanded their operations in the fall. The FMLN headquarters in Nicaragua evolved into a sophisticated command-and-control center -- more elaborate, in fact, than that of the Sandinistas against Somoza. Guerrilla planning and operations are guided from this headquarters, where Cuban and Nicaraguan officers are involved in command and control. The FMLN headquarters in Nicaragua also coordinates propaganda and logistical support for the insurgents, including food, medicines, clothing, money, weapons and ammunition.

In December 1981, after meetings in Havana with Salvadoran guerrilla leaders, Castro directed that external supplies of arms to FMLN units be stepped up to launch an offensive to disrupt the elections. During the first three months of 1982, arms shipments into El Salvador surged. Cuban-Nicaraguan arms flowed into El Salvador through Honduras by overland, sea and air routes.*

In addition to vitally needed ammunition, these supply operations included greater quantities of more sophisticated heavy weapons. Deliveries in 1982 included M-60 machine guns, M-79 grenade launchers and M-72 antitank weapons. One guerrilla unit received several thousand sticks of TNT and detonators from Nicaragua (only five sticks are needed to blow up an electrical pylon). Individual units regularly received

* The House Permanent Select Committee on Intelligence, which has extensively reviewed intelligence data on Central America, wrote in its report published on May 13, 1983 (House Report No. 98-122, Part I) that the guerrillas in El Salvador "are well trained, well equipped with modern weapons and supplies, and rely on the use of sites in Nicaragua for command and control and for logistical support. The intelligence supporting these judgments provided to the Committee is convincing." The Committee also concluded: "Cuban and Sandinista political support for the Salvadoran insurgents had been unequivocal for years. The Committee concludes that similar strong military support has been the hidden complement of overt support." Press accounts subsequent to the Committee's report have documented methods by which this war materiel is delivered (e.g., the September 21, 1983, wire service article carried in the Washington Post on the use of fishing boats to ship arms across the Gulf of Fonseca).

tens of thousands of dollars for routine purchases of supplies on commercial markets and for payments (including bribes) to enable the clandestine pipeline to function. On March 15, 1982, the Costa Rican Judicial Police announced the discovery in San Jose of a major cache of arms, explosives, uniforms, passports, documents, false immigration stamps from more than 30 countries, and vehicles with hidden compartments -- all connected with arms smuggling through Costa Rican territory, and through Nicaragua or via third countries, to the Salvadoran guerrillas.

Following the success of the 1982 elections, the FMLN leaders reacted as they had after their failed 1981 "final offensive." They consulted with Nicaraguan and Cuban officials to plan strategy and to obtain more and better military equipment for their forces. For the next six months, they continued terrorist harassment and economic sabotage. In mid-October 1982, they begin a new series of military attacks. By early 1983 the guerrillas had controlled about a dozen towns for more than two months. During 1982, guerrilla operations resulted in about 2,500 government troops wounded and 1,300 killed.

All available evidence indicates that this flow of weapons and resources continues despite recent Sandinista claims that they are modifying their relationship with the Salvadoran guerrilla groups. As of late December, there was no evidence that command-and-control operations had been transferred from Nicaragua. Sandinista public gestures appear to be more tactical maneuvers to improve the Sandinista political position than representative of a fundamental change in policy.

III. POLITICAL DEVELOPMENT

The 1979 coup d'etat by reformist military officers broke traditional oligarchical control of the government, and El Salvador has since witnessed a rapid political evolution. This section explores the process of developing a more democratic and just society within El Salvador.

A. The March 1982 Elections

The March 1982 elections were a milestone in El Salvador's political evolution. Representing the potential vigor of participatory democracy, they marked the initial consolidation of the political center which began to emerge around the 1979 coup and the 1980 reforms. On March 28, 1982, some 1.5 million Salvadorans went to the polls to elect deputies to the Constituent Assembly. The political front of the guerrilla movement had been invited to field candidates in the elections, but claimed that the proper conditions did not exist. Although the guerrillas attempted to disrupt the elections by violence, six parties ran candidates and roughly eighty percent of eligible voters cast their ballots. Over 200 international observers and some 700 members of the international press were present. There was general agreement that the elections were fair, honest and representative.

Following the March elections, the Junta transferred authority to a provisional government named by the Constituent Assembly. The Provisional President, Alvaro Magana, selected as a consensus candidate, is a political independent. Three vice-presidents represent the three parties receiving the most votes: the Christian Democratic Party (PDC), the Republican National Alliance (ARENA) and the Party of National Conciliation (PCN).

Except for the Democratic Action Party (AD), all of the political parties that had won seats in the Constituent Assembly signed the Pact of Apaneca establishing the "Government of National Unity" on August 3, 1982. The pact set goals for the government under the headings of pacification, human rights, economic recuperation, reforms, confidence and security, and strengthening El Salvador's international position. The pact also called for the formation of Political, Peace, and Human Rights Commissions, all of which are now functioning. Subsequently, a joint government-private sector Commission for Economic Reactivation was established. Though still not a signatory of the pact, the Democratic Action Party consented to join the Government in early 1983; it is now represented on the Council of Ministers.

The period since elections has not been without setbacks -- prominently including a resurgence of death squad activity in September-November of 1983 -- but its accomplishments have been substantial:

- a new, more liberal constitution was drafted and approved by the Constituent Assembly and put into force on December 20, 1983;
- an amnesty for guerrillas and political prisoners was carried out to the benefit of more than 1,100 individuals;
- the land reform program has witnessed further consolidation and progress, to the benefit of more than 550,000 Salvadorans. The new constitution protects the reform and provides for action for the first time in Phase II. Phase III has been extended three times with support from the President, military, and legislature;
- a dialogue was begun with the guerrilla opposition and its political front. Although presently interrupted, the government is willing to renew the dialogue at any time;
- the government's case against persons charged in the murder of four U.S. citizen churchwomen has entered the final stage of the trial, and a key arrest has been made in the case of murdered U.S. labor advisers;
- the political parties and the democratic political process have been significantly revitalized, providing an increasingly strong framework for the holding of presidential elections on March 25, 1984; and
- the government has intensified efforts to eliminate the infrastructure and activities of the violent right.

B. Institutional Evolution

The new constitution, adopted on December 20, 1983, strengthens the rights of the individual; establishes safeguards against excessive provisional detention and unreasonable searches; establishes a republican, pluralistic form of government; strengthens the legislative branch and enhances judicial independence. The constitution also increases guarantees for labor, particularly rural workers. In an effort to curb violence by extremists, the Assembly outlawed the existence of any armed group except for the government's Armed and Security Forces (and followed up with a strong public denunciation of terrorists of both the left and the right).

The process of drafting and promulgating the new constitution raised a variety of contentious issues to the surface of Salvadoran political life. One such issue, the future of the country's land reform, was eventually resolved with an agreement that protected two ongoing phases of the reform while enacting a compromise version of a third segment. During the debate over the articles covering the land reform, the Assembly was lobbied intensely by both campesino groups favoring the reform and private sector and other interests opposed to it.

Concurrent with the drafting of the constitution -- which includes basic provisions concerning elections -- the Central Elections Council has been preparing an electoral law and an electoral register. The Legislative Assembly is expected to deal with the electoral law in the near future. Under the proposed law, candidacies will be open to all registered political parties. Any party, regardless of its ideology, that wishes to participate peacefully in the nation's political life will be allowed to do so, providing it meets the technical administrative requirements established by the Central Elections Council. The electoral register, prepared with the assistance of the United States Agency for International Development, will give an extra measure of integrity to the elections.

In November, the Constituent Assembly decreed that presidential elections will be held on March 25, 1984. All six of the parties represented in the Legislative Assembly now have chosen presidential candidates and a vigorous campaign is underway. Following the promulgation of the new constitution, the Constituent Assembly was disbanded by President Magana and reconstituted -- with the same membership -- as the Legislative Assembly in accordance with transitory articles in the new constitution. These articles stipulate that Legislative Assembly deputies and mayors will remain in their offices until April 30, 1985. Elections for these offices are expected to take place in the early part of 1985.

El Salvador's Peace Commission has tried to discuss with the armed left and its political associates the modalities of participation in free elections, including physical security for candidates and access to media, but its offers have not been accepted. In two meetings held outside of El Salvador, guerrilla representatives have rejected participation in the elections. The guerrillas have been unable to show that they have a sizeable popular constituency, as demonstrated by their inability to disrupt the 1982 elections and their failure to match their military prowess with political gains. Many informed observers, including the Catholic Church, have publicly commented on the guerrillas' lack of a popular base.

Nevertheless, it would clearly be best for El Salvador's institutional development if the far left were to accede to competition at the polls, participate fully in the national dialogue represented by the electoral process, and reflect the sentiments of its supporters through the mechanisms of representative democracy. The United States will continue to foster this participation.

C. Human Rights

Many factors, some cultural and historical, others directly related to current political conflicts, have made violence endemic in El Salvador. Even before the beginning of the recent period of civil strife and terrorism, El Salvador was known for having one of the highest per capita rates of homicide in the world. The uncertain security situation and breakdown of the judicial system work against resolution of what was already a complicated problem. Nevertheless, important progress has been made on the several fronts related to human rights.

1. A Decline in Violence against Civilians

The number of press-reported civilian deaths attributable to political violence continues at an unacceptably high rate, but has dropped significantly. The number of disappearances reported in the press remained stable throughout the year except for an increase in September, the same month death squads began openly targeting university professors and trade union leaders suspected of "leftist" sympathies.

The last six months of 1983 saw a sharp decline in press-reported civilian deaths attributable to political violence. The average number of such deaths fell from 177 per month during the first half of 1983 to 104 per month during the last six months of 1983, a 41 percent decrease. The average for all of 1983 was 140 deaths per month compared to 219 in 1982 and 444 in 1981. Moreover, for four of the last six months in 1983 the number of press-reported deaths per month fell below 100 for the first time in recent years.

Statistics published by various private human rights organizations conflict with each other, some indicating an increase, some a decrease and some no change in civilian deaths. Monthly averages for the first six months of 1983, compared with the monthly average for July-November reported by these groups, are as follows: Human Rights Commission of El Salvador (CDHES): 378 versus 414; Socorro Juridico Cristiano: 470 versus 510; Oficina de Tutela Legal: 428 versus 427; the Universidad Centroamericana's (UCA) Center for Documentation and Information: 188 versus 106 (for July-October). Eleven-month totals for civilian deaths, by

source, are: CDHES: 4342; Socorro Juridico Cristiano: 5373; Oficina de Tutela Legal: 4705; UCA: 1555 (10 months). (Private human rights groups, some of which reflect strong political biases, generally include as "civilian deaths" all battlefield casualties including guerrillas other than those suffered by the military.)

It is not apparent to what extent government forces were involved in disappearances. Nevertheless, elements of the Security Forces are believed to have been involved in or responsible in a number of instances. In some cases, individuals reported to have disappeared were later found to be legally in government custody; in other cases, rightist and leftist terrorist groups are believed to have been responsible.

The number of press-reported civilian disappearances remained at 39 per month during the last six months of 1983, the same level as during the first half of the year. Two private human rights organizations report a decline in disappearances. Their monthly averages for January-June and July-November are as follows: CDHES: 34/22; Tutela Legal: 77/38.

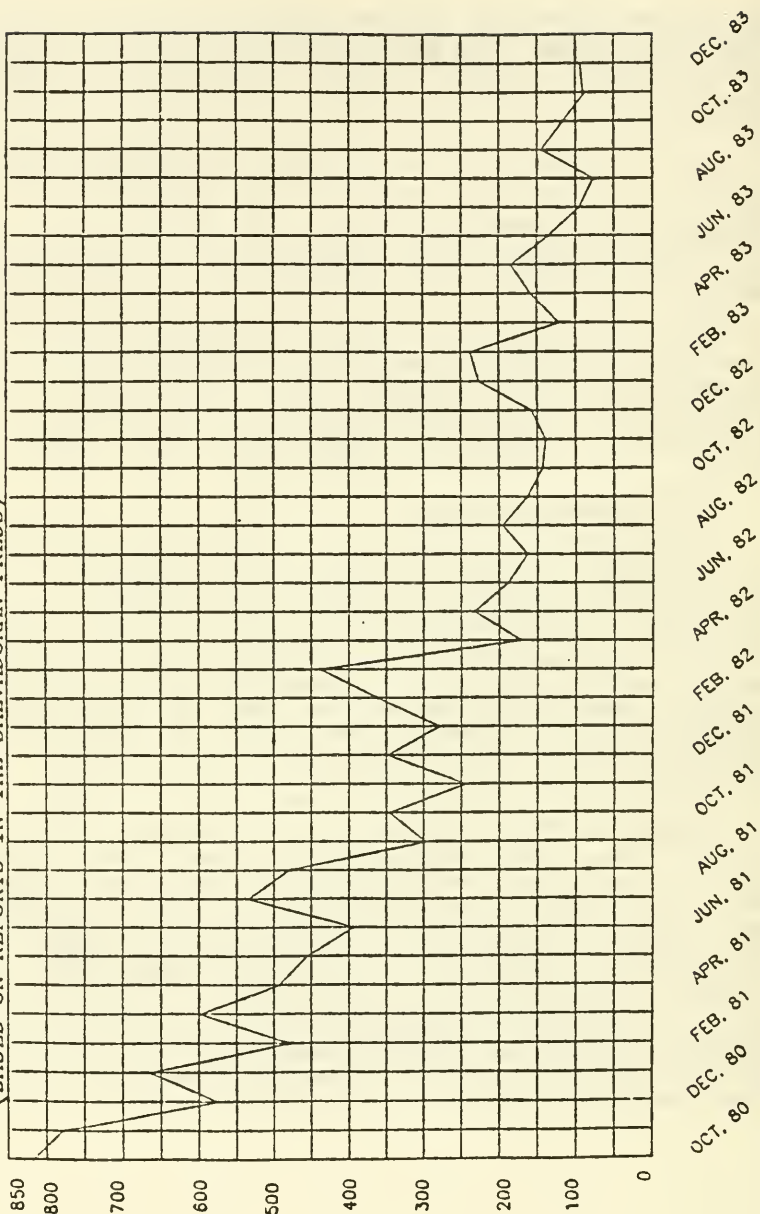
2. Right-Wing Violence

The overall decline in the number of civilian deaths attributable to political violence occurred despite a significant increase in death squad activity against prominent individuals, especially academics and labor leaders. The resurgence, which began in the second half of the year, appears to have been a reaction to a number of significant political developments in El Salvador, including the dialogue with the left, the upcoming presidential elections, labor-organized political strikes, intensive union lobbying of the Constituent Assembly in support of the land reform program, and an increasing concern by the violent right that it has lost influence in El Salvador.

A number of right-wing death squads have operated in El Salvador. They engage in kidnappings and assassinations and oppose the reform programs of presumed leftist sympathizers. Most of these squads appear to have been operating for several years, but with varying degrees of openness and publicity. In July, the Secret Anti-Communist Army, joined in September by the Maximiliano Hernandez Martinez Brigade, began demanding and getting front-page coverage by newspapers and other media, which were often threatened with reprisals for failure to publicize the squads' communiques. Less publicity-hungry squads operate in rural areas, kidnapping, torturing, and murdering their victims without claiming responsibility for these acts.

CIVILIAN DEATHS ATTRIBUTED TO POL VIOLENCE

(BASED ON REPORTS IN THE SALVADORAN PRESS)



Since early September 1983, death squads have claimed responsibility for bombing the homes or establishments of persons and organizations thought by the right to have leftist sympathies, and for the kidnapping and murder of a number of government officials, university professors and labor leaders. Archbishop Rivera y Damas and Auxiliary Archbishop Rosa Chavez have been threatened. Political leaders have also received threatening phone calls. The Secret Anti-Communist Army has claimed to have captured three guerrilla leaders and offered to exchange them for three Salvadoran Army officers being held by the guerrillas.

The United States reacted strongly against the resurgence of death squad activity. Both President Reagan and Vice President Bush vigorously condemned the death squads. On November 25, 1983, Ambassador Pickering delivered a major speech in San Salvador calling for action by the government and a national consensus to repudiate the death squads. (Text of Vice President's statement at Appendix A; Ambassador Pickering's statement at Appendix B)

Salvadoran government officials have also spoken out forcefully against this attempt by the extreme right to disrupt the political process, and some unprecedented initial actions have been taken to bring the death squads under control.

On September 23, 1983, El Salvador's Ministry of Defense issued a statement repudiating "all terrorist actions from whatever source because they constitute violations of human rights." On December 2, Minister of Defense Vides Casanova pledged "to bring before the law the members of these terrorist bands -- whoever they may be and whatever reasons they might give to justify their illegal activity." (Text at Appendix C) On December 15, the High Command of the Salvadoran Armed Forces and commanders of the military and the public security forces issued a statement endorsing the position of the Minister of Defense and pledging "to fight the death squads and the terrorist groups with all the means at our disposal until they are definitively eradicated from our country." (Text at Appendix D) President Magana, in his December 23 Christmas message to the nation, also spoke forcefully against the death squads, saying that to permit such activity is to promote a return to the law of the jungle. The President underscored his commitment and that of the Armed Forces' commanders to ensuring the physical security of the citizenry. The government's Political Commission and the Constituent Assembly have also spoken out forcefully against terrorists, including the death squads, as have political parties with a wide range of political philosophies.

In consonance with these statements, several officers with alleged ties to the death squads were transferred to other posts in late November. In December, some of them were also ordered transferred to posts out of the country. On December 2, the National Police announced the arrest of three members of the Constituent Assembly's security force on charges of kidnapping. The arrests were made within 48 hours of the crime, and the suspects have since been consigned to the courts. The chief of that force, who has often been linked in the public mind with death squad activity, left his position with the change in Assembly leadership in late December. On December 18, the Minister of Defense announced that a specialized investigative unit would be organized to investigate and combat the death squads. The unit is expected to be operational in early 1984.

In a communique broadcast on local radio on January 3, 1984, the Secret Anti-Communist Army charged that U.S. opposition to the death squads was extortion and intervention in the internal affairs of El Salvador. The secret organization, which has taken credit for many killings, claimed that "gringo" accusations were groundless, based on "imputations made by the FMLN terrorists."

3. Government Forces

Charges of indiscriminate and politically-motivated violence have been leveled against elements within the Armed Forces. Investigations are still underway on the incident at Las Hojas where there is evidence that an army unit killed at least 18 unarmed campesinos in February 1983. The local judge has completed his investigation and expects to move the case to trial in the next few months. (The government's Human Rights Commission carried out its own investigation and delivered its report to President Magana.) In Zaragoza, La Libertad Department, there are indications that a civil defense force was involved in the November 1983 kidnapping of seven men and two women later found dead in a ravine. This incident is under investigation. The Government of El Salvador has thus far not taken any significant action to investigate and bring to justice those responsible for the killings that occurred at Santa Elena and La Florida in 1982. (The investigation in the La Florida case has been hindered by a lack of witnesses willing to come forward and testify.)

Some of the charges against government forces, such as those leveled against the Atlacatl Battalion in a November 3, 1983 action near Cinquera in Cabanas Department, appear to be exaggerated, misleading or false. In this particular case, after the alleged massacre was publicized by the guerrillas' Radio Venceremos, journalists visited the village of San Nicolas near Copapayo, where government troops were accused of

herding 20 civilians into a house and then murdering them. Although the facts are still far from clear, there was apparently no evidence of gunfire within the house to support the allegation of a cold-blooded murder. This lends credibility to the government's account of a major military engagement in a nearby area from which bodies may have been brought to the house.

Salvadoran soldiers continue to be convicted and punished for common crimes including flagrant and violent abuse of authority. On December 19, the National Police arrested Captain Eduardo Avila, who was wanted for questioning concerning the 1981 murder of two American Institute for Free Labor Development (AIFLD) officials and the head of the Salvadoran land reform agency. However, the Salvadoran government has not taken sufficient action to bring to justice those responsible for the incidents of politically inspired human rights abuse.

Minister of Defense Vides Casanova has spoken out forcefully on the need to respect human rights, and he has taken some noteworthy actions to demonstrate his determination in this matter. In November, he spoke to El Salvador's Command and General Staff College graduates. In his speech, he made an appeal for their assistance in strengthening the Armed Forces. He highlighted seven major points which have the solid support of the High Command, including support for the democratic process, the apolitical nature of the Armed Forces, and the obligation of all members of the Armed Forces to respect fully the human rights of the people. The Minister of Defense has asked members of the Armed Forces and Security Forces to seek out all information available to develop evidence on any abuses committed by the uniformed services. As a follow-up to his points on the democratic process and the role of the Armed Forces, Gen. Vides directed on January 3 that the Armed Forces remain apolitical and non-partisan in the ongoing electoral campaigning being waged by the political parties. He ordered regional commanders to prepare plans to guarantee the electoral process and to cooperate with election officials. (Text of order at Appendix E)

On December 14, 1983, Gen. Vides issued a general order requiring Security Force members to be in uniform in virtually all cases when conducting arrests, to identify themselves while making the arrest, and to notify the Armed Forces Chiefs of Staff, the International Committee of the Red Cross (ICRC), the government's Human Rights Commission and the detainees' relatives. The order permits incarceration only in officially recognized places of detention and reinforces the prohibition against the use of torture.

The government's Human Rights Commission has continued to investigate reports of human rights abuses and to speak to units of the Salvadoran Armed and Security Forces on the importance of respecting human rights. It has regular channels of communication to the military and security forces. From July to December 20, 1983, the Commission received 413 new complaints or inquiries, which were resolved as follows: 47 persons received protection from the Commission; 5 were found to have been kidnapped by the FMLN; 127 were under custody of the security forces; 18 were amnesty law beneficiaries; 11 were found to have been assassinated; and 205 cases remain under investigation. The Salvadoran government is now processing the Commission's request for additional funds to open, furnish and staff three new regional offices in Santa Ana, San Miguel and San Vicente and to expand the central office in San Salvador. At the Commission's instigation, local newspapers now carry regular features and columns on human rights issues in an effort to broaden public awareness of their importance. Minister of Defense Vides Casanova and Commission member Monsignor Delgado have visited various military installations to speak about human rights, and National Police Director and Commission member Col. Lopez Nuila has presided over a conference on human rights and also addressed the National Salvadoran Indian Association on the topic.

Dr. Angel Ibarra, whose arrest in April 1983 by the National Police received extensive publicity in the United States, was released from custody on October 26 by order of President Magana. Other cases have been concluded by release of the detainee, including the highly publicized cases of Dr. Ricardo Calderon of the University of El Salvador and Mardoqueo Carranza, a Protestant minister.

During 1983, the Department of State received allegations that some prisoners held by the National Police have been subjected to torture either as arbitrary punishment or in an effort to extract information. Forms of alleged mistreatment have included electric shock, beatings, and deprivation of food, water and sleep. Such mistreatment is contrary to military and Security Force regulations and most likely takes place before a prisoner is formally incarcerated. In general, conditions at Salvadoran prisons are relatively good, routine visits of the ICRC (which has access to all known detention centers in the country) are permitted, and there have been no recent, substantiated allegations of mistreatment once a prisoner is remanded to prison. Measures to revitalize the legal system (Part D of this Section), along with the ongoing effort by the Salvadoran High Command to exert meaningful control over its forces, address some of the fundamental deficiencies underlying any mistreatment of prisoners.

4. The Guerrillas

The guerrillas continue to be responsible for significant human rights violations, including murder. Former CNT (ARENA Labor Front) Director Salvador "Bobby" Jimenez Molina died in Houston, Texas in December 1983, following an assassination attempt by two presumed FPL terrorists. The FPL also claimed responsibility in June 1983 for the assassination of ARENA Deputy and former labor leader Rene Barrios Amaya. Barrios, along with Bobby Jimenez, was one of the founders of the CNT. During the first week of January 1984, ARENA party member Maria Ovidia Amaya, mayor of Yamabal, Morazan Department, was dragged from her home and shot to death. Several retired and active duty officers have been gunned down on the streets of San Salvador, away from battle areas. In some instances, the guerrillas have taken credit for these attacks. The FPL was responsible for the massacres of two groups of military prisoners in 1983 and the murder of Lt. Commander Albert Schaufelberger (below).

Guerrilla units stage kidnappings for ransom. Because the families of kidnap victims generally try to avoid publicity in order to negotiate their release, these guerrilla kidnappings receive little media coverage. In his January 8, 1984 homily during Sunday mass at San Salvador's Metropolitan Cathedral, Auxiliary Archbishop Rosa Chavez publicly called upon the guerrilla leadership to release the people they had kidnapped. He made particular reference to Luis Ernesto Meardi Borlasca, who has been held by the ERP since November 23, 1983, and who is blind and suffering from heart problems. There are continued reports of civilians being kidnapped by the guerrillas for recruitment purposes.

In addition to the civilian deaths directly attributed to them by press reports during the July-November period, the guerrillas are also responsible for the deaths of a significant, if indeterminate, number of civilians who are forcibly used as a shield against government forces in combat situations. Auxiliary Archbishop Rosa Chavez spoke out against this practice on October 2, 1983. The guerrillas have interfered with the military's battlefield communications to redirect fire from military to civilian targets.

The guerrillas view political instability and economic chaos as key to their strategy of assuming power. According to the guerrillas, "The sabotage that the FMLN promotes is seriously affecting the dictatorship's war economy" (reported by Radio Venceremos, an outlet of the FMLN guerrillas, on September 1, 1983). On August 26, 1983, Radio Venceremos reported that the FMLN had "blown up 72 bridges in the years we have been at war." According to a Havana International Service broadcast of December 27, 1983, Salvadoran guerrillas destroyed

23 bridges and four trains during the year. The guerrillas also claim responsibility for numerous attacks on the electrical grid and routinely boast the percentage of the country left without power after they have destroyed pylons or substations. According to the Salvadoran Chamber of Commerce and Industry, damage to the electrical grid -- as of September 1983 -- amounted to over \$38 million. Damage to bridges amounted to over \$27 million.

Damage to bridges, roads, trains and agricultural processing installations are estimated by the Chamber to have cost around \$245 million in lost production, a severe blow to the rural poor who depend on agriculture for a living. The Armed Forces, together with civilian ministries, have aggressively endeavored to remedy the situation through the National Campaign Plan. The plan calls for military action to protect the key agricultural departments of San Vicente and Usulután, and civilian action by the National Commission for the Reconstruction of Affected Areas (CONARA) to restore cooperatives damaged or closed by the guerrillas, to restore basic social services and to resettle persons displaced by the violence. The guerrillas have attempted to disrupt this process and, on November 5, 1983, announced over Radio Farabundo Martí (another voice of the FMLN): "The CONARA plan is being defeated in San Vicente, and the regime's economy is being sabotaged." In fact, CONARA's work continues despite the guerrillas' efforts to disrupt the progress.

In other attempts to disrupt agricultural production, the guerrillas have fired on crop-dusting planes, in several cases wounding the pilots. They have also impeded the movement of crops to processing plants, causing the produce to rot.

The guerrillas have targeted public transportation as part of their strategy of sabotage. Normally, the guerrillas allow passengers to disembark before destroying buses; and by August, 1983, they had totally destroyed some 725 buses and had damaged 560 others. On October 4, and then on October 6, however, the guerrillas attacked buses killing and wounding civilians, including minors.

The guerrillas also routinely destroy the municipal buildings and civil registries of towns they occupy. With this destruction, birth and death certificates and other vital public records are lost. The guerrillas' motive in this destruction, aside from placing an administrative burden on local government, is to disrupt the process of an electoral registry. On October 5, 1983, a Central Elections Council spokesman announced that around 60 municipal buildings had been destroyed in the eastern and central parts of the country and

that only a few villages in San Miguel Department had active municipal files. (The Central Elections Council is taking away some of the attraction to guerrillas of this strategy by preparing a new registry that will include centralized microfiche copies of civil records.)

The basic contempt with which the guerrillas hold the electoral process was explained in the FMLN's 1984 New Year's policy statement as reported on Radio Venceremos:

"We are certain that we have the people's support, and this is obvious to everyone. We have no need to prove it on paper. No voting at the polls can be more eloquent or convincing than the facts of the war. The will to win even at the cost of one's life is a demonstration that is a thousand times clearer than the vote."

This statement was a rebuttal to Archbishop Rivera y Damas, who in his December 11 homily had said:

"The consulting of people through elections is without a doubt the most adequate means of satisfying the self-determination of the people and the selection of their governing officials."

The prelate's belief that the guerrillas do not enjoy popular support and operate out of areas that are over 70 percent depopulated was already a matter of public record.

Faced with the continued destruction and political disruption caused by the guerrillas, the Archdiocese of San Salvador published the following in a January 9, 1984, editorial in its weekly journal Orientacion:

"...Those who have joined the extreme left are the unjust aggressors of the Salvadoran people. Their actions, even though seemingly aimed against the government and a class and a caste, really and truly only affect the people, who are the only victims and the only ones who suffer the consequences."

5. Murders and Disappearances of U.S. Citizens

There have been no reports of U.S. citizen disappearances since July 1982, and no U.S. citizen is known to have been killed in El Salvador since the assassination of Lt. Commander Schaufelberger on May 25, 1983.

An Armed Forces communique published on January 12, 1984, declared that, along with pursuing the elimination of right and left-wing terrorism, "The Armed Forces will continue to investigate the criminal cases that involve the deaths of foreign citizens in Salvadoran territory." This statement is directed principally at the U.S. citizen cases, but it addresses several deaths of citizens of other countries as well.

The Churchwomen

The case against ex-National Guardsmen accused of the December 1980 murder of four U.S. citizen churchwomen has continued to move through the Salvadoran judicial system and now seems likely to reach completion by mid-1984. The ex-guardsmen remain in detention.

In December 1982, the Salvadoran investigating judge elevated the case against the five ex-National Guardsmen to the plenario or final stage of the trial. The defense attorneys for the ex-guardsmen promptly appealed the judge's ruling. On March 11, 1983, an appellate court confirmed that the judge had properly elevated the case to the plenario with respect to the murder charges, but returned the case for further clarification concerning certain ancillary crimes such as theft. (Under Salvadoran law, a defendant must be tried simultaneously for all crimes committed during a criminal act.) This remand created the opportunity to admit into the record certain evidence analyzed by the FBI, such as ballistics tests, that had not been previously admissible because of the legal requirement that all such tests be conducted in El Salvador. With the help of an FBI ballistics expert, the National Police were also able to link a second defendant directly to the crime through examination of a rifle not available to the FBI during its initial tests. This evidence has been legally admitted and considerably strengthens the case against the defendants.

In response to congressional suggestions, the Secretary of State invited the Honorable Harold G. Tyler, a former U.S. District Judge and Deputy Attorney General, to conduct a review of all materials available to the United States Government concerning this case and to recommend any further actions that the United States Government might take to be helpful in these prosecutions. Judge Tyler has submitted his report, which was provided to the Foreign Affairs, Appropriations and Intelligence Committees of the House of Representatives and the Foreign Relations, Appropriations and Intelligence Committees of the Senate. Although the report has not been publicly released at this time out of concern for its possible adverse effect on the trial, it will be made public immediately upon completion of the case. The Government of El Salvador has accepted and substantially accomplished all of the investigatory recommendations made by Judge Tyler.

On October 28, 1983, the investigating judge again elevated the case to plenario. The defense has appealed the elevation and a decision is expected from the Court of Appeals early this year. If, as is hoped, the court sustains the elevation, the plenario stage will continue. It should take two to two and a half months to complete the plenario stage, which ends with the presentation of the case to the jury for a verdict.

The American Institute for Free Labor Development (AIFLD)
Consultants

The Salvadoran Attorney General is continuing to pursue the prosecution in the murders of Michael Hammer and Mark Pearlman, which has been plagued by adverse rulings by the Salvadoran courts. Last April 29, the Appellate Court in San Vicente denied the Attorney General's appeal of the investigating judge's decision to dismiss provisionally charges against Lt. Rodolfo Lopez Sibrian and to dismiss definitively the charges against Ricardo Sol Meza and Hans Christ. Unless overturned by the Supreme Court, this decision would close judicial proceedings against Sol Meza and Christ.

The provisional dismissal of charges against Lopez Sibrian was a setback, particularly because of the substantial body of evidence indicating that Lopez Sibrian ordered two guardsmen to commit the murders. In an effort to reverse the Appellate Court decision, the Attorney General appealed to the Supreme Court. However, the appeal was denied in November 1983. The case against Lopez Sibrian will remain open for one year from the date of the Supreme Court's denial of the appeal, and the Salvadoran Attorney General has the opportunity to introduce new evidence against Lopez Sibrian. The Supreme Court accepted jurisdiction over the Attorney General's appeal of the dismissal of charges against Hans Christ and Ricardo Sol Meza. A decision in that case is pending.

The Appellate Court affirmed a lower court decision to commence full trial proceedings against the two ex-guardsmen who have confessed to being directly responsible for carrying out the murders. Under Salvadoran procedural rules, the trial of the ex-guardsmen has been deferred, however, while the remainder of the murder case is before the Supreme Court.

The arrest of Capt. Avila in December, 1983, is a major development. He has been charged with an infraction of military discipline which carries a penalty of 30 days' detention, and additional charges may be filed against him. Although the pending appeals may create some legal complications, it is possible that Capt. Avila can provide testimony that will significantly advance the case. According

to the testimony of the confessed gunmen, Avila and Lopez Sibrian provided them with the weapons they used to murder the AIFLD advisers.

In spite of threats, intimidation, and adverse judicial rulings affecting the prosecution of the AIFLD murder case, the Salvadoran executive branch continues to make a good faith effort to bring to justice those responsible.

John Sullivan

John J. Sullivan was killed in El Salvador, apparently during the night of December 28, 1980. His body, mutilated beyond recognition, was found near Nuevo Cuscatlan on the morning of December 29, 1980, and buried the following day. Based on an anonymous tip, Salvadoran authorities located Mr. Sullivan's body in June 1982, and it was positively identified in the United States in February 1983. The American medical examiner was unable to determine the cause of Mr. Sullivan's death, nor was he able to find any forensic evidence that might assist in finding the killers. The anonymous tip indicating the location of Sullivan's grave came from a man who chanced to pick up local gossip while passing through Nuevo Cuscatlan. The Salvadoran authorities continue to investigate the circumstances surrounding Sullivan's death, but they have been unable to learn the identity of his killers.

Michael Kline

Salvadoran soldiers shot and killed Michael Kline on October 13, 1982. He had been traveling through El Salvador by public bus en route to Costa Rica. The soldiers stopped his bus at a checkpoint. Apparently, the soldiers decided that there was something suspicious about Mr. Kline, so they took him off the bus and put him on a truck with the intention of taking him to their headquarters at San Francisco Gotera. The soldiers killed Mr. Kline before they got to San Francisco Gotera, claiming that he tried to grab a gun and, failing that, tried to escape. Although the soldiers originally stated that they shot Mr. Kline from a distance during an escape attempt, an autopsy revealed that the shots were fired at close range.

The Salvadoran military began an investigation into the killing. The Salvadoran Minister of Defense turned the three soldiers present at the shooting over to the civilian courts. Currently the three soldiers remain under detention on suspicion of murder. The judge in San Francisco Gotera who was conducting the initial investigation of the killing was transferred. A new judge was very recently named and has already begun to take the steps necessary to complete the

investigative stage of case. The new judge has been instructed by the Supreme Court to complete the pre-trial process on a priority basis, and he expects to elevate the case to the trial stage in February 1984.

Lt. Commander Albert Schaufelberger

Lt. Commander Albert Schaufelberger, Deputy Commander of the U.S. Military Assistance Group in El Salvador, was killed on the campus of the University of Central America in San Salvador on May 25, 1983. The Popular Liberation Forces (FPL), an extreme left-wing guerrilla faction, and the Farabundo Marti National Liberation Front (FMLN), the umbrella organization of the five guerrilla organizations, claimed responsibility for the murder. Salvadoran authorities arrested and obtained a confession from an FPL member, Daniel Alvarado Rivera. However, after an investigation involving polygraphic examinations and a comparison of the confession with the physical evidence, the United States Government has concluded that the accused, although a member of the FPL terrorist organization, was not involved in the murder and that he had confessed to the crime under duress. Additional leads are now being developed and investigated.

Patricia Cuellar

Patricia Cuellar, a dual Salvadoran-American citizen, disappeared from her residence in San Salvador on July 18, 1982. Later the same day, her Salvadoran father, an executive director of a major businessmen's association, and his maid, also disappeared. An eyewitness interviewed by the National Police and polygraphed by the FBI was unable to offer any information that would have identified the abductors. President Magana and then-Defense Minister Garcia assured the Embassy that no branch of the Government of El Salvador was involved in the abductions. There are still no leads as to Ms. Cuellar's whereabouts. The Salvadoran Government investigators are continuing their investigation into the case.

D. The Legal System

El Salvador's leaders have come to accept the need for a major renovation of their legal system. The United States stands ready to lend assistance to this process. Legal authorities and funding available for ongoing initiatives to support legal reform activities have just been expanded by the U.S. Congress. Discussions with Salvadoran authorities are underway.

The roots of current problems in El Salvador are historical and political and have resulted in a theoretical structure voided by a lack of respect for and faith in the law. The courts have suffered from lack of independence in matters of political importance and from a chronic indifference toward the resource and other needs of an effective judicial system. The recent cycle of political violence and economic depression has brought about strains that even a more healthy judicial system would have difficulty accommodating. In the case of El Salvador, the result has been the effective collapse of the administration of criminal justice in cases with political overtones.

The acute deficiencies that Salvadoran legal reform must address touch all parts of the legal process and are fundamentally interrelated:

The judicial career, below the level of the Supreme Court, is not prestigious. The independence of the judiciary has been limited by political appointments, short tenure, and a lack of authority to make constitutional law with effect beyond the particular case before the courts. Cases of subversion, terrorism, and political crimes covered by state of emergency Decree 507 have been removed from the jurisdiction of the civilian and the regularly-constituted military courts.

The resources of the court system are minimal. Salaries are very low, judges earning half or less of what they might expect to earn in private practice. Outside practice is the norm, giving rise to possible conflicts of interest. The court system's budget, which is 1.2 percent of normal government revenues, permits only part-time operation. Some courts of first instance have only five dollars per month for overhead. The legal system is plagued by the unavailability of basic legal materials. There is no training program for judges or staff. In fact, local justices of the peace not only are untrained in the law, but often are uneducated. The Supreme Court's medical examiners lack trained personnel and the equipment to perform their functions.

The budget and other resources of the Fiscal, or Attorney General, responsible in the Executive Branch for prosecution of all criminal cases in the country, likewise are severely constrained. Like the courts, the Fiscalia (office of the Fiscal) works half-days at low salaries. There are only 30 lawyers on its staff; most of the work is done by the approximately 60 law students in its employ. Training is acquired on the job.

At present, El Salvador has no effective ability to conduct sophisticated criminal investigations. The National Police have some trained investigators and a modest criminal laboratory capability. But there is much reliance on confessions obtained under questionable circumstances, which are routinely thrown out by the courts. Neither the Fiscalia, nor the courts (charged in the civil law system with investigation and preparation of evidence for trial) have the trained personnel or the technical resources to conduct adequate criminal investigations, and they do not have jurisdiction over Security Force investigations. The poor rate of convictions in criminal cases -- and the slow pace of procedure -- are glaring. These problems are most acute in politically sensitive cases, particularly cases of abuse of authority by members of the Security Forces, cases of murder of U.S. citizens, and cases falling under Decree 507. While any discussion based on available Salvadoran statistics must be highly qualified, of over 1,100 such proceedings initiated in the courts in the past three years only a handful have resulted to date in a full trial and conviction. Almost all abuse-of-authority cases referred to the civilian courts have been routinely dismissed.

Proceedings move slowly. A 1978 case has just resulted in a verdict of guilty against six ex-National University policemen accused of murdering a dean, a student and two others during campus disturbances. Even in less-sensitive cases of murder and other felonies, the rate of conviction is estimated at only 10-20 percent.

The problem of intimidation is subtle and pervasive. Adjudication of a complaint against a Security Force member, for example, would simply be assumed to court a risk of retaliation, even if unstated. In this climate, physical security measures for participants in sensitive cases -- judges, lawyers, jurors, witnesses -- are necessary and urgent. There are now none. Because of the risks to personal safety, and the low income from court appointments, there are few competent defense lawyers in the country, and fewer still willing to take on particularly sensitive cases.

The emergency Decree 507, as amended by Decree 943, has failed to assure due process to political and terrorist detainees. Of over 565 Decree 507 detainees released by presidential action or amnestied in 1983, none had ever been in court. The civilian court system has limited power to intervene in Decree 507 cases, but the Supreme Court may review cases under the Writ of Personal Exhibition -- analogous to habeas corpus -- and order the release of detainees. During 1983, the Supreme Court reviewed 1,048 such writs and ordered

the release of the prisoner in over 10 percent (112) of the cases. A constitutional challenge to the emergency law has been pending before the Supreme Court since early 1983.

Salvadoran codes and procedures require modernization in a number of areas, despite the relatively recent date of the criminal and criminal procedure codes. Evidentiary rules are cumbersome and outdated, and still emphasize eyewitness and documentary testimony. There are frequent opportunities for interlocutory appeals which have greatly delayed the progress of cases such as that of the American churchwomen.

President Magana, himself a former law professor, has taken the lead in fostering steps to address the systemic failure of the administration of justice. He constituted a Judicial Reform Study Commission in the spring, composed of representatives of the Supreme Court, the Constituent Assembly Legislative and Constitutional Committees and Executive Branch agencies. This commission was charged with laying the groundwork for the current public phase of legal reform activity and with preparation of a revision of Decree 507. A revision was drafted, designed to afford greater due process to detainees and more timely procedures; but further action on replacing Decree 507 was deferred to await completion of work on the constitution.

On September 26, 1983, President Magana signed Decree 81 establishing the Revisory Commission on Penal Legislation, subsequently re-styled the Revisory Commission for the Judicial Criminal System, the Criminal Code, and the Criminal Procedural Code. The decree takes note of the need for "complete revision of the present legislation regarding investigation, trial and sentencing of criminal acts" and for complementary changes in "systems or procedures to guarantee its efficient application." The Revisory Commission, which was sworn in on December 21, is composed of seven members, led by a former deputy foreign minister and representing a variety of public and private institutions. The Revisory Commission is charged with a broad mandate to recommend to the President codal and procedural reforms in the criminal justice field, and legal or regulatory changes to improve the judicial system generally. The recommendations of the law faculties and private bar groups will be sought by the new commission, which will report within six months.

The Supreme Court, on September 9, 1983, created a Commission on Penal Reform, composed of three Supreme Court justices headed by Justice Samuel Cardenas, an appellate judge, and two private attorneys experienced in the field of criminal law. The creation of the Supreme Court commission reflects the

formal role of the Court under the 1962 Constitution in proposing legislation, a feature curtailed in the new constitution (see below). The two commissions plan to work independently but will collaborate wherever possible.

The constitution that went into effect on December 20, 1983 addressed certain critical problems in the articles on the Judiciary. Among the changes:

- A new Constitutional Law Chamber of the Supreme Court was created composed of five justices, with the power of constitutional review of all laws (at present, Supreme Court decisions on the constitutionality of laws affect only the particular case before it); this Chamber will also process Writs of Personal Exhibition to accelerate disposition of these cases.

- The Supreme Court's previous power to initiate bills along with the Executive and the Legislature is limited. This power will henceforth be confined to proposing laws relating to the Judiciary and notarial functions. There was concern that expanded powers to review the constitutionality of laws could involve potential conflicts of interest in cases in which the Court had proposed the legislation under attack.

- The Supreme Court is empowered to prepare its own budget presentation. The Executive must transmit it to the legislature without change as part of the general budget.

- Judges of the second instance (appellate level), as well as first instance and justices of the peace, will now be named by the Supreme Court instead of being elected by the legislature.

- A National Council of the Judiciary will be established to propose nominees for first and second instance judgeships and to oversee their performance. Implementing legislation will decide the membership of the Council, but the purpose is to include the various lawyers' associations in the process along with judicial officials.

- Supreme Court terms have been lengthened to five-year renewable terms; the entire Supreme Court will be elected by the legislature pursuant to these provisions.

- Judges of the first and second instance will be appointed to three-year terms, which are to be automatically renewed unless the incumbent is removed for professional or ethical reasons.

-- The long-deferred law on the judicial career is to be enacted, regulating judicial qualifications and standards of performance.

-- The constitution provides that the Fiscal may organize and direct an Office of Criminal Investigation. The precise functions of this office and its relationship with the investigative function of the Security Forces is clear.

U.S. Actions

Existing funding authorities for certain legal reform activities under the Foreign Assistance Act of 1961, as amended, have been expanded by the Congress to permit the United States to more actively assist the Salvadoran Government. The second Continuing Resolution for FY 1984 earmarks not less than \$3,000,000 of economic support fund monies to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes. These programs may be funded notwithstanding the provisions of Section 660 of the Foreign Assistance Act, which otherwise prohibits assistance to law enforcement forces.

The Continuing Resolution has opened the possibility of significant support for the activities of the Legal Reform Commissions, and discussions have begun about possible areas of assistance. Pursuant to this authority, the United States is working with the Salvadoran Government on development of a pilot project to provide protection for participants in the judicial process. A team of U.S. marshals traveled to El Salvador last July to discuss United States programs and practices in this area, and will return to El Salvador in early 1984 to help refine a concrete proposal. The United States will assist with technical advice, professional training, and needed detection and other equipment. Similar efforts are underway to improve the professional investigative capability available to the Judiciary.

The United States Government has signaled its great concern about renovation of the Salvadoran legal system in a series of visits, including that of Attorney General Smith last April, and a number of working-level and technical delegations. Senator Arlen Specter visited El Salvador twice in 1983 to reinforce congressional concerns about progress in legal reforms and the pending case of the murdered U.S. churchwomen. Successful conclusion of this case will be an important achievement, for both countries, and would be evidence in itself of the revival of Salvadoran legal institutions.

A number of ongoing U.S. initiatives, in El Salvador and regionally, are also making a contribution. Under a grant to the Latin American Institute for the Prevention of Crime and Treatment of Offenders (ILANUD), based in San Jose, Costa Rica, an expert team will visit El Salvador, as well as other countries in the region, to meet with the Legal Reform Commission and other groups, and to develop specific, cooperative proposals for further action. In July and August, 1983, seven Salvadoran lawyers participated in a four-week, international visitors grant program in the United States, and another Salvadoran attorney was able to attend an international conference on the independence of the judiciary held in Montreal. (This attorney is now Executive Secretary of the Revisory Commission.) The United States has provided a list of specialized U.S. Government training courses open to qualified candidates, and has contributed to the funding of a regional conference to be held by the Costa Rican Bar Association in March 1984 on the role of bar associations in Central America. A graduate scholarship program in criminal, agrarian and administrative law to be held by the University of Costa Rica Law School will include Salvadorans. Other initiatives, such as a regional judicial training course for judges, are under development. Given the similar range of problems affecting the legal systems of Central American and Caribbean Basin countries whose legal systems are based on civil rather than common law, cooperative programs by national institutions and regional organs such as the OAS (which is developing a legal reform assistance program with U.S. encouragement) and ILANUD are a potentially important complement to bilateral programs.

E. Dialogue

The Government of El Salvador has undertaken a major initiative to promote a peaceful, democratic political solution to the armed conflict in that country. The government and the political parties of which it is composed agree that the political future of El Salvador should be determined through democratic elections in which the entire population can express its political preferences. They are opposed, however, to a deal by which the violent left would obtain a share of governmental authority without popular elections (i.e., the guerrillas' demand for power-sharing).

In order to establish fair conditions for democratic elections, the Salvadoran Peace Commission (composed of a prominent businessman and party leader, a leading bishop, and an ex-foreign minister) was created by the government's Political Commission to serve as a vehicle for dialogue with

the armed and unarmed elements in opposition to the government. The Peace Commission reports directly to the authoritative Political Commission (a group composed of the President, three Vice Presidents, Defense and Foreign Ministers, and representatives of the major parties).

The U.S. fully supports El Salvador's determination to allow its population to decide its own political future. To this end, President Reagan has charged his Special Envoy for Central American Negotiations, Ambassador Richard B. Stone, with the task of supporting and facilitating dialogue between the Salvadoran Peace Commission and opposition elements. Ambassador Stone is also tasked with consulting with participants in the Contadora process -- a regional diplomatic effort designed to advance peace, democratization and economic cooperation in the region.

Internal Dialogue

On July 9, 1983, pursuant to a request of the Salvadoran Political Commission, Ambassador Stone sought to meet in San Jose, Costa Rica with representatives of the guerrilla FMLN coalition and the FDR political coalition which has allied itself with the guerrillas. The purpose of the San Jose contact was to facilitate a meeting between the FMLN/FDR and the Peace Commission. The Stone meeting, however, did not take place because of unacceptable pre-conditions posed by the FMLN/FDR for what was supposed to be a meeting without conditions.

On July 31, 1983, Ambassador Stone, after consultation with the Salvadoran Political Commission, had preliminary contact in Bogota, Colombia, with a representative of the FMLN/FDR. As a result of this discussion, the FMLN/FDR dropped its earlier pre-conditions and agreed to a more formal meeting.

On August 29, 1983, in Bogota, Colombia, the Peace Commission held its first preliminary contact with the FMLN/FDR to work out procedures for a substantive meeting. Accordingly, on August 30, 1983, Ambassador Stone met with an FMLN/FDR delegation in San Jose, Costa Rica to encourage the continuation of the direct contact between the FMLN/FDR and the Peace Commission which had been initiated the day before.

The substantive meeting of the Peace Commission and the FMLN/FDR was held in Bogota, Colombia on September 29, 1983. The Peace Commission offered to begin discussions with the FMLN/FDR on all relevant issues (such as candidates' security and access to mass media) related to the holding of democratic elections. The FMLN/FDR rejected the offer and responded with its view that it should be given an immediate share of political

power. Moreover, it demanded that its guerrilla fighters be integrated intact into the Salvadoran Armed Forces while reserving for itself the right to purge and reorganize the government's military. The leftists' demands were considered completely unacceptable and antithetical to the democratic process which began with the election in 1982.

With the exception of informal communications, there have been no further meetings of Ambassador Stone or the Peace Commission with the FMLN/FDR. The Salvadoran Peace Commission has indicated, however, that it is ready to resume dialogue with the FMLN/FDR to discuss elections and the ongoing democratic process.

The Contadora Process

The Government of El Salvador has been an active participant in the Contadora process along with its four Central American neighbors (including Nicaragua) and the Contadora group (Mexico, Venezuela, Colombia, and Panama). The United States has supported such participation, and Ambassador Stone has consulted repeatedly with the Salvadoran and other governments on the Contadora process. In these consultations and the Contadora ministerials and technical group meetings, the Government of El Salvador has produced a number of constructive suggestions for facilitating progress.

The Government of El Salvador approved the Document of Objectives which emerged from the Contadora Ministerial of September 7-10, 1983. Under the 21 points included in the document, the Salvadoran government and the other governments of Central America commit themselves to agree on verifiable measures to end subversion of one state by another, limit arms and foreign advisors, and promote democratization and national reconciliation.

Currently, the Government of El Salvador is participating in efforts within the Contadora process to elaborate measures necessary for comprehensive implementation of the 21 objectives. At the January 7-8, 1984 meeting of the Contadora group, El Salvador and the other Central American states agreed on the establishment of three working groups to develop specific recommendations to implement commitments on political, security, and socio-economic issues. The United States has fully supported, through the Stone mission and in other fora, comprehensive, verifiable implementation of the Contadora 21 objectives on a regional basis as the best formula for ensuring long-term stability in the area.

IV. ECONOMIC DEVELOPMENT

A. Economic Overview

Before 1960, the economy of El Salvador depended mainly on a few subsistence and export crops. However, the creation of the Central American Common Market (CACM) stimulated the development of the manufacturing sector. This helped El Salvador to achieve average real growth during the 1960's and 1970's of more than five percent a year. At the same time, however, the population increased from 2.6 million in 1960 to 4.8 million in 1980. Industry was unable to provide jobs for most new entrants into the labor force, and the country's limited size, and concentration of land ownership stifled opportunities for the growing campesino population to become independent landholders.

The military leadership installed by the October 1979 coup supported -- and in some cases directly implemented -- a series of sweeping economic reforms, including the agrarian reforms and nationalization of the financial system and of coffee and sugar marketing operations. The reformist junta led by Jose Napoleon Duarte and the Government of National Unity in power since May 1982 have subsequently faced the problems of a rapidly deteriorating economy amidst violence from both the extreme left and extreme right.

Since 1979, gross domestic product (GDP) has fallen by about 25 percent in real terms, exports have dropped by 40 percent, and unemployment may be as high as 40 percent. The violence has triggered large-scale capital flight, reduced public and private investment by 48 and 74 percent respectively, interfered with production and exports, and generated fear and uncertainty in the private sector. Depressed commodity prices, declining CACM and developed country demand for manufactured goods, high interest rates and the sharp oil price increases of 1979-80 have been costly to the Salvadoran economy. Maintaining public and social services has contributed to a growing and increasingly onerous debt burden.

Short-term economic prospects for El Salvador remain poor. Although GDP is not expected to decline again in 1983, the economy has stagnated at an intolerably low level of activity. Urban unemployment remains high and has been exacerbated by large numbers of displaced persons from the regions affected by the fighting. Inflation is 10-13 percent per year and climbing, high by Salvadoran standards. Recovery is hampered by the financial and economic effects of fighting an ongoing guerrilla war.

The guerrillas themselves acknowledge that economic deterioration is a key ingredient in their strategy to bring down the government. Their attacks on the basic infrastructure, especially the transportation and electrical energy sectors, have been persistent, successful and extremely costly. Direct damage to the economy from guerrilla sabotage is estimated to be more than \$800 million since 1979. Recently the guerrillas have increased their attacks on the agricultural sector, which accounts for a quarter of GDP, nearly half of employment, and two-thirds of the country's exports.

In addition, economic recovery is impeded by a scarcity of foreign exchange. Political and security uncertainties caused foreign private credit to contract by about \$250 million between 1978 and 1982, depressing imports of spare parts, machinery and raw materials. At the same time, the unrest has led to a further reduction of foreign exchange availabilities through capital flight.

To ameliorate the foreign exchange problem and help El Salvador toward economic stabilization, a one-year International Monetary Fund standby credit for \$47.4 million was put in place during 1982. A \$36.2 million compensatory financing facility was approved at the same time. The performance of the Salvadoran Government in meeting the IMF-imposed targets was good, and all IMF funds were disbursed. Negotiation of a new standby for 1984 is expected to begin once a new government has been elected.

B. Land Reform

The Government of El Salvador continues to make documented progress on implementing the agrarian reform program. Over the past three and a half years, much has been accomplished through land reform despite efforts of extremists on both the left and the right to obstruct the program. Under the land reform's two currently active phases, landless farm laborers and tenant farmers are purchasing the land they have tilled while payments are being made to former owners by the Salvadoran government. A third stage of the reform will make additional land available for the landless.

Approximately 23 percent of the country's land in farms has now been handed over to campesinos and cooperatives. As of the end of December 1983, some 92,000 farmers had received land through the land reform program, as compared to 83,000 in June 1983. Including their families, more than 550,000 people -- some 18 percent of the rural population -- have benefitted from the reform. This is an increase of 50,000 over the June 1983 total.

Phase I: Under Decree 154 (dated March 5, 1980), individual land holdings in excess of 1,235 acres (500 hectares) and some smaller properties voluntarily offered for sale were taken by the government and turned into cooperatives of former workers and tenants. Fifteen percent of the country's farmland has been affected by Phase I, and 317 cooperatives have been formed. Most will soon begin their fourth year of operation. These cooperatives have 31,359 members or about 188,000 beneficiaries when family members are included.

With the exception of cotton and rice, yields of basic grains and export crops are higher than the national average. Phase I farms recorded increases in yields per hectare for the important crops of coffee and cotton in 1983 compared to 1982 harvests. However, there was a drop of 15 percent in area planted from 1982 to 1983 because of continued low world market prices for exports and violence in the countryside.

The quality of farm management is a critical factor in the success of agrarian reform cooperatives. ISTA, the GOES agency responsible for the implementation of Phase I, has inaugurated a program to strengthen the managerial capacity of the agrarian reform cooperatives. Toward this end, in cooperation with lending institutions and campesino organizations, a list of 105 qualified and approved farm managers and 45 accountants has recently been developed. As of November 16, 1983, twenty-three farm managers had been placed, and twenty-one additional requests for farm managers were being processed. One farm accountant has been placed.

Phase II: The original agrarian reform law provided for transfer of ownership of all farm land in excess of 247 acres (100 hectares) held by any individual and not covered by Phase I. The administrative complexity and economic costs of such a massive dislocation soon forced even the reform's authors to question the workability of Phase II under that definition. After more than two years of national discussion, and extended debate in the Constituent Assembly, the new constitution contains an article which will restructure and revive Phase II. Under Article 105, owners of more than 605 acres (245 hectares) will be required to sell the excess within three years to campesinos, their associations, or other small farmers. Failure to comply will permit the government to expropriate the land immediately without prior compensation. Although the new cutoff is higher than that sought by campesino groups, it represents a major compromise by El Salvador's more conservative factions and is a clear step forward from the state of limbo in which Phase II had previously languished.

The farms to be affected under Phase II are medium-sized and among El Salvador's most productive. Observers estimate that the amount of land to be affected will range from 30,000 to 70,000 acres. By relying on private market sales, Phase II should escape much of the political rancor surrounding the other two phases. It is too early to comment on implementation of the redefined Phase II, but the new structure is fully consistent with the goals of the land reform to reduce the concentration of agricultural production in a few hands and to open the land to new ownership. The new Phase II will also serve to resolve owner uncertainty and free all Phase II lands for sale immediately, which should stimulate agricultural production and investment in the short term.

Phase III: Under Decree 207 of April 28, 1980, former tenant farmers and shareholders are entitled to purchase the land they worked at a price determined by the implementing agency of the Salvadoran government, FINATA. Compensation is to be based on the former owner's assessment of the value of the land in his 1976-1977 tax declarations. In the absence of these tax declarations, a fair value is computed based on the soil characteristics of the land. Implementation of Phase III follows three basic steps:

- (1) Acceptance by FINATA of the beneficiary's application. This gives the applicant provisional title, user rights and certain provisional legal rights of ownership. In effect, this represents de facto implementation of the reform, since the beneficiary no longer owes rent and can cultivate the land as his own.
- (2) A field inspection by FINATA agents develops a land survey and provides most of the information necessary to final titling.
- (3) Payment of compensation and issuance of final title represents de jure implementation and completes the process of transferring ownership.

Numerous problems have surfaced between the initial issuance of a provisional title and the final determinations necessary for final titling. Some delays are based on resistance by former owners, who can impede the process by suing for higher compensation. Guerrilla attacks and threats against FINATA inspectors have impeded the necessary land surveys.

But, as of late December 1983, over 60,000 persons had filed petitions for land, or 53 percent of those estimated to be eligible by the Government of El Salvador. This ratio stood

at 43 percent in June, 1983. Including family members, more than 364,000 Salvadorans are now moving under Phase III toward ownership of the land they work. The number of property owners compensated stood at 499, an increase of 394 during 1983.

In July 1983, FINATA, the Phase III implementing agency, began a mobile campaign to increase the number of applicants as well as to speed up the compensation process and the granting of definitive titles. During the period July 25, 1983, when the campaign began, through December 1983:

- 8,924 farmers filed title petitions for 11,093 parcels of land.
- 12,101 provisional titles were issued.
- 2,765 definitive titles were completed.
- 218 landowners were compensated.

Evictions: Illegal evictions of and violence against Decree 207 beneficiaries by former owners continue to be problems. As the criteria for Phase III land transfers involve the way owners used land, as opposed to the size of their holdings, many who have lost land under Phase III are not wealthy. There is some evidence that most violence and illegal evictions come from the former owners of the smallest, not largest, Phase III farms. The Armed Forces have shown strong support for Phase III through their actions to assist FINATA in reinstalling beneficiaries on their new land.

In an effort to get an accurate measure of the dimensions of the eviction problem, the Government of El Salvador's Office of Agrarian Reform Evaluation (PERA) undertook a survey in June 1983. The study obtained estimates of the number of Phase III beneficiaries who had been illegally evicted from their lands by interviewing as many campesinos as possible on 330 properties chosen at random throughout the country. (Evictees are defined by FINATA as those who had filed a Decree 207 application and subsequently been denied access to the property.) PERA's study indicated that 11.0 percent of Phase III beneficiaries had been evicted. A new survey is underway to determine the effectiveness of the reinstallation effort being carried out by FINATA and the Armed Forces.

Since clear title to the land for beneficiaries is tied to compensation to former owners, a key issue in reducing illegal evictions and violence is the provision of sufficient resources to the government to speed up the compensation process.

Compensation: The Salvadoran government continues to honor its obligation to compensate former owners of land affected by the agrarian reform. Compensation in Phase I of the reform is in long-term, interest-bearing bonds for land, and a mix of

cash and short-term bonds for livestock, machinery, and equipment. As of November 1983, compensation paid totaled the equivalent of \$120.1 million including \$9.1 million in cash and \$111 million in bonds. Interest payments on Phase I bonds now stand at \$14.9 million. The government is current in its interest payments.

Cash compensation paid under Phase III is now the equivalent of \$2,262,200 plus \$321,200 in interest payments. Phase III compensation as of December 1983 in both bonds and cash totaled the equivalent of \$9.62 million. The compensation schedule on Phase III transactions is 50 percent cash and 50 percent bonds for affected properties under 100 hectares. For properties over 100 hectares, the compensation schedule is 25 percent cash and 75 percent in bonds.

The Salvadoran government has indicated that its 1984 budget will include the equivalent of \$20,353,240 for agrarian reform compensation. The government continues efforts to make bonds a more attractive instrument of payment. Interest coupons can be used to pay some taxes and are traded (at a deep discount) on a secondary market. In cooperation with the private sector, the government is investigating ways in which the bonds could be directly traded in exchange for shares in businesses now publicly owned. Current restrictions in foreign assistance regulations preclude the use of U.S. assistance for the purpose of land reform compensation.

A more complete report on the land reform is being submitted separately to the Congress as required under the second Continuing Resolution for FY 1984.

C. Other Reforms

The other principal reforms consist of banking and commodity marketing nationalization.

On March 7, 1980, El Salvador's eleven domestic commercial banks and eight savings and loan associations were nationalized. As previously organized, ownership of these institutions was concentrated in the hands of a small group of wealthy families and individuals -- largely the same group that owned the largest landholdings -- and these owners tended to allocate a disproportionate amount of credit to themselves. Decree 158 of 1980 resulted in the government's expropriation of all shares of the banks and savings and loan institutions with a commitment to sell 49 percent of the shares back to the public. Former owners were compensated with five-year, nine percent bonds. No individual may hold more than one percent ownership of any financial institution.

The principal goals of the nationalization were fourfold:

- to improve access to credit for a large majority of Salvadoran individuals and firms;
- to assure credit access for agrarian reform beneficiaries;
- to direct domestic savings toward productive investments to improve overall development prospects; and
- to improve income distribution through the increased participation of ordinary Salvadoran citizens in the ownership of the financial institutions.

Evaluated against social criteria, the results of nationalization have been mixed, but with clear successes. Commercial banks are now financing roughly half of the agrarian reform while savings and loan institutions have increased their financing of low and middle-income housing by almost 25 percent over pre-reform levels. It is premature to judge whether commercial credit will expand into other productive sectors, such as light industry. Business attitudes toward expansion, and the general public's view of new ventures, are wary at best. The test of increased accessibility to the banking system will have to await an overall improvement of the investment climate. The objective of distributing the ownership of financial institutions suffers from the same lack of investor confidence, perhaps coupled with overpricing of the shares offered. The Central Reserve Bank estimates that \$56.8 million worth of shares are available for sale to the public, but applications for only about \$120,000 have been received. (This may also reflect unfamiliarity with public share offerings in a country that does not have a stock market.)

Judged against financial efficiency, the results are less good. Until the business climate improves, it will be difficult to assess what impact -- if any -- the reform has had on banking efficiency. Deposit growth has been relatively strong, but has not been matched by loan growth. Profitability has fallen. It is impossible, however, to lay blame for these negative indices exclusively on the reform. The business climate is not conducive to aggressive lending or borrowing. World markets for traditional exports are weak, and foreign exchange is difficult to obtain even for inputs necessary for production. Foreign credit lines to Salvadoran commercial banks have dropped precipitously. Although there has been some recovery since a 1980 low, banks are also faced with a heightened level of non-performing loans, due both to market conditions and guerrilla destruction of productive enterprises and their supporting infrastructure.

Reforms in the marketing of two major export crops have affected the financial sectors as well as the agricultural sector. Early in 1980, the Salvadoran government nationalized the marketing of coffee and sugar and established two state-owned companies, INCAFE and INAZUCAR, to promote their marketing abroad and domestically, to administer El Salvador's obligations under international commodity agreements, to purchase the raw production from the farmers, and in some cases to manage crop processing.

Coffee growers in particular are unhappy with government control over the flow of foreign exchange receipts from commodity exports. Part of the problem stems from weak international prices for coffee and International Coffee Organization quotas which severely limit export possibilities. There are, however, specific internal complaints. INCAFE pays growers based upon the world price calculated in U.S. dollars, but the Central Bank transfers receipts to INCAFE at the official rate of 2.5 colones to the dollar. The resulting price paid growers (in colones) is often not profitable. There can also be delays in purchasing growers' crops because INCAFE already carries a large surplus stock. Many growers believe they can do better through private marketing mechanisms. Sugar producers, though initially opposed to the reform on principle, are being paid remunerative prices by INAZUCAR and are relatively satisfied.

D. Organized Labor

The work force of El Salvador is largely agricultural. In addition, the number of workers in manufacturing, construction and service industries has declined steadily over the past five years. The world economic recession and El Salvador's guerrilla war have taken their toll on the nation's economy. As a result, organized labor in El Salvador has been required to devote much of its attention to easing the effects of a three-year old wage freeze law, a continuing high rate of layoffs, missed government salary payments, and the high rate of unemployment. Rapid population growth will exert even more pressure on the economy's limited ability to provide jobs. (See section F, below.) These problems, however, have apparently strengthened union cohesion.

Total union membership peaked in 1977, with over 76,000 registered members, and dropped to a low of 55,200 the following year. Membership had climbed back to 71,000 by 1980, and to 74,000 by 1983.

There are three major political umbrella groups for labor. Largest and most important of these is the Popular Democratic Unity (UPD), which brings together independent, democratic federations into a centrist coalition lobby. Although not a

legally recognized trade union confederation (because the previous constitution did not permit agricultural workers the right to organize formally), the UPD represents the point of view of the moderate center-left democratic urban unions and campesino associations. The American Institute for Free Labor Development (AIFLD) is a strong supporter of the UPD. The urban federation members of the UPD have been hard hit by the unemployment crisis, and the UPD campesino associations are vigorously pushing the agrarian reform process.

Further to the right is an informal alliance of the General Confederation of Unions (CGS) and the National Confederation of Workers (CNT). The CGS, which is much smaller than the UPD, was affiliated with the Inter-American Regional Organization of Workers (ORIT), an arm of the International Confederation of Free Trade Workers (ICTFU), until expulsion in 1979 on charges of corruption and domination by the National Conciliation Party (PCN). The CGS is trying to recover and still maintains some contact with AIFLD. The newer and smaller CNT is yet further to the right.

The third umbrella association is the left-leaning Unitary Labor and Brotherhood Movement of El Salvador (MUSYGES), a loose grouping of unions with an assortment of philosophies on both politics and labor activism. Also operating within the labor left are groups -- some underground -- with close ties to the armed, violent left. They are collectively representative of not more than 13,000 workers and campesinos. Leadership is often political rather than trade union oriented.

There is general agreement that the labor code of El Salvador is outmoded and ineffective in supporting meaningful labor-management relations. It is particularly weak where workers' rights are concerned. Collective bargaining is virtually non-existent. The weak labor code and the wage freeze law (which severely limits salary increases for public and most private employees), combined with severe unemployment and underemployment, effectively hinder labor negotiations. Moreover, claims of worker harassment and union busting efforts by management are very common, as is the claim that the Ministry of Labor has been unable to assume a definitive role in protecting against these practices.

The Ministry of Labor recently formed a tripartite (business, labor and government) commission to study the labor code and recommend reform measures. The commission's report and recommendations should soon be presented to the Legislative Assembly for discussion and approval. Labor's view is that labor-related articles in the new constitution fail to provide sufficient worker protection. Labor leaders hope that the labor code commission will be able to strengthen workers' rights through additional labor code legislation.

U.S. Government relations with organized urban and campesino labor in El Salvador are indirect: the American Institute for Free Labor Development (AIFLD) is funded jointly by the U.S. Government and the AFL-CIO. Although it has recently devoted increased attention to urban labor, during the past three or four years AIFLD has been primarily engaged in supporting agrarian reform and the campesino movement.

Recent AIFLD objectives have been to help develop competent trade union leadership, to impart technical training to Phase I agrarian reform cooperatives, and to help ensure the success of the reform's Phase III. The latter is accomplished through assisting promotional campaigns for the registration of remaining potential Decree 207 land reform beneficiaries and supplying other technical and financial assistance. AIFLD's program include leadership training, seminars, scholarship to the George Meany Center for Advanced Labor Studies and community development projects. In addition to the traditional workers' representation role, El Salvador's major democratic labor confederations have increased their political involvement in recent months. In order to combat the involvement of leftist unions that have been more political than unionist in their orientation, the UPD and others have begun to assert political muscle. Demonstrations and lobbying for such issues as the land reform have become increasingly common and will likely continue as the elections approach.

In a significant precedent, the Christian Democratic Party-backed General Confederation of Workers (CGT) organized a two-day conference in November 1983, to discuss the general situation in El Salvador, the status of its democratic experiment and the prospects for peace. The conference was a well-attended success and clearly showed a greater openness to labor/campesino views of the nation's problems and a more courageous outspokenness about obstacles to peace.

Reactions from the left and the right have sometimes been extreme. Abductions and murders of labor leaders have been a serious problem. Nine union leaders (of both leftist and rightist orientation) disappeared or were murdered this past year, and a number of other labor activists suffered a similar fate.

E. U.S. Economic Assistance

1. Economic Support Funds (ESF)

ESF has become the single most important element of U.S. economic assistance for El Salvador, accounting for over 50 percent of total bilateral economic assistance in fiscal years 1982 and 1983, with the same relationship planned for FY 1984.

From FY 1981, when the U.S. began providing significant amounts of ESF for balance of payments support, through the end of FY 1983, the main purpose in providing ESF has been to stabilize the economy by arresting the precipitate four-year decline in GDP.

The principal use of ESF has been to finance imports from the U.S. of raw materials, intermediate goods, and parts and equipment needed to maintain private business activity and employment. This strategy has been partially successful; the provision of \$220 million over FY 1982-83 as emergency cash transfers to address the balance of payments crisis is expected to permit El Salvador to record no GDP decline in 1984 following a similar record in 1983. However, since the economy contracted by 25 percent between 1978-1982, stabilization at the current low levels of economic activity is not a satisfactory result. The immediate objective is to achieve positive real growth by providing increased balance of payments support and by encouraging the Government of El Salvador to implement policy changes conducive to increased production, employment and exports.

A secondary but vitally important use of ESF in El Salvador has been to finance the restoration and replacement of vital infrastructure. Thus far, \$28 million has been used for the repair of the electrical distribution system, roads and bridges, railroads, telecommunications, and municipal water systems damaged or destroyed by guerrillas. This assistance covers only a fraction of the total amount of infrastructure damage, but, because it is quickly disbursed, it allows the Salvadoran government to address its most urgent infrastructure priorities.

2. Development Strategy

Projections indicate that the Salvadoran government will require substantially increased balance of payments support to achieve the goal of 3 percent GDP growth in 1984 and 1985. U.S. economic support funds and P.L. 480 concessional credits for food imports will satisfy only part of this requirement. The Salvadoran government's strategy, supported by the U.S., is to combine this balance of payments support with promotion of macroeconomic policies that encourage production, employment, foreign exchange generation, industrial stabilization and recovery, and continued support for the agrarian reform programs.

The Salvadoran government also directly supports the agrarian reform programs as well as the gradual extension of its combined security and development program initiated in San Vicente Department. This program is designed to restore security and basic services and reactivate the economy. With

increased levels of U.S. support, increases in the level of assistance provided by the International Monetary Fund and World Bank, somewhat better prices for Salvadoran export crops, an improved world economy, and, above all, some improvement in the security situation and in the investment climate, significant positive growth is an achievable goal.

Deteriorating social services require immediate attention, particularly in the health and education sectors. U.S. assistance is essential to help strengthen the Salvadoran government's presence at the grass-roots level, to provide for the basic human needs of the majority of Salvadorans, to arrest further institutional deterioration, and to protect prior investments in these sectors. The strategy is to deal immediately with the symptoms (e.g., absence of medicines and supplies, closed schools and lack of textbooks) while strengthening weak points of the systems (e.g., health logistics and education administration).

The Salvadoran government thus proposes to combine a program which reverses the process of economic deterioration with initiatives to improve the quality of social services. While this program takes effect, current humanitarian assistance programs will be expanded and improved, including the restoration of strife-torn areas and the resettlement of displaced persons.

Economic Stabilization and Recovery As the current economic crisis in El Salvador threatens social and political stability, the U.S. economic assistance program is designed to:

- maintain or increase imports which support agricultural and industrial production;
- guarantee food stocks;
- restore damaged infrastructure;
- encourage development of exports and expanded production of private businesses, both small and large, emphasizing enterprises which contribute to foreign exchange earnings and generate employment;
- utilize the special opportunities presented by the Caribbean Basin Initiative; and
- support public sector efforts in employment, agrarian reform, services restoration, and humanitarian efforts.

Humanitarian Assistance. While supporting efforts to address the immediate problem of human suffering, U.S.-supported programs provided \$10.5 million in both fiscal years 1982 and 1983 for emergency relief for the displaced. These programs seek to:

- provide emergency food and health care to the poor or displaced who cannot provide for themselves or their families;
- provide work for displaced and unemployed heads of households on projects of importance to the communities in which they reside or which improve the health and sanitation of refugee camps or settlements; and
- help displaced persons take advantage of opportunities for permanent resettlement by providing for food, loans, basic tools and equipment; access to land, and low-cost housing materials.

This strategy also emphasizes expanded participation of private voluntary organizations (PVOs) to address problems of displaced persons. Further information on relief efforts for the displaced is contained later in this report.

Social Development. El Salvador is faced with the need to correct historical imbalances in its economic and social structure. The country's high population density and continued high fertility rates (see section F below), its dependence on a few export crops, skewed income distribution, and a lack of natural resources present a formidable challenge to successful social development.

The Salvadoran government's strategy, with U.S. assistance, supports programs which:

- restore health and education systems and infrastructure in areas where guerrilla action has destroyed or jeopardized the viability of existing systems, and restore the quality and efficiency of those systems throughout the country to pre-conflict levels or better;
- provide access to maternal health services;
- improve housing and community services for people whose access to start-up capital has been limited; and
- strengthen democratic institutions, such as the Central Elections Council.

In FY 1983, the U.S. provided \$16.7 million for a health systems revitalization project and \$1.8 million for a demographic grant for family planning purposes. An education systems revitalization program is currently being designed.

The U.S. also supports Salvadoran efforts to assure the poor a greater stake in the economy through:

- consolidation of the land reform program designed to give farmers the opportunity to own the land they farm and to farm on a cooperative basis large tracts formerly owned and operated by individual landowners;
- credit programs which provide capital to small farmers and businessmen who are participating, often for the first time, as full partners in the private enterprise economy;
- training and extension support to increase the access of poor people to appropriate modern technologies;
- development of infrastructure, such as small irrigation systems and access roads, to improve yields and market access for new landowners; and
- marketing efficiencies which make local producers more competitive.

The development strategy in El Salvador utilizes the experience and assistance of U.S. and local private voluntary organizations. These agencies bring to the development effort technical skills and program approaches well adapted to this society, and they provide an access to the perspectives and aspirations of elements of the society which formal government relationships cannot provide.

3. Caribbean Basin Initiative

The Caribbean Basin Economic Recovery Act, which came into effect on January 1, 1984, eliminates duties on virtually all U.S. imports if they originate in designated Caribbean Basin countries. The President designated El Salvador as a beneficiary on December 29, 1983.

The immediate benefits of the Act for El Salvador will be modest. Salvadoran producers of presently dutiable exports to the U.S. will receive higher revenues as a result of the duty elimination. However, of the products which El Salvador now exports (\$310 million in 1982), most (\$217 million in 1982) already enter the U.S. free of duty under either the general provisions of the U.S. tariff schedule (i.e. most favored nation) or the special provisions for developing countries (the Generalized System of Preferences).

Over the longer-term, the effects of this trade benefit could be significant. The objective of this program is to stimulate new investment and production, and hence create new jobs. Thousands of products not now produced in or exported from El Salvador will enter the U.S. duty-free. Salvadoran investors must now identify which new products they can export efficiently to the U.S., given local circumstances. For the full effect of this trade incentive to be realized, other conditions relevant to investment decisions (e.g. reasonable political stability, appropriate governmental investment, economic and labor policies, etc.) would also have to be positive. It is clear, however, that important new opportunities have been opened up for El Salvador, particularly in the areas of horticulture, processed agricultural goods and light manufacturing.

F. Population Growth

With 225 people per square kilometer (580 per square mile), El Salvador is the most densely populated non-insular country in the hemisphere. Its estimated population of five million is growing rapidly (2.9 percent annually), and at the current rate of growth, it will reach about eight million by the year 2000. Continued high growth in population will exacerbate social and political tensions and undermine development efforts. Government goals to provide public services, classrooms, housing, and basic health care are made increasingly difficult by the growing numbers. Gains in agricultural production, for example, are not expected to keep pace with the rapid growth in demand for food. Likewise, increasing demand for firewood will add to the depletion of forests and detract from commercial lumber uses. Perhaps most dramatic is the growth in the labor force. With nearly half of El Salvador's population under age 15, growth of the labor force will be rapid. The resulting unemployment, urbanization, and migration are potential sources of political and economic instability.

Rapid growth also affects the health of mothers and infants. Child spacing, maternal age, and number of births per mother all affect infant mortality. In El Salvador, infant mortality ranges from 60 to 80 deaths per thousand live births for the first four children. For the fifth and subsequent births, the infant mortality rate more than doubles to 160 deaths per thousand live births. On average, El Salvador's women have over six children.

Since the early 1970's, Salvadoran leaders have recognized the impact of rapid population growth on development. Ambitious government programs have been launched through the Ministry of Health, but have been plagued by implementation problems and political disruptions.

In recent years, the private sector, led by the Salvadoran Demographic Association (the International Planned Parenthood affiliate), has greatly strengthened its program, despite the civil strife. However, even with the success and the continuity of both the public and private sectors' effort, only about 35 percent of married women of childbearing age use family planning methods. The picture is somewhat more positive in urban areas where approximately 50 percent of women in the same group use family planning methods.

U.S. population assistance began in 1966. Bilateral assistance, about \$1.8 million in FY 1983, is expected to increase in FY 1984. In addition, non-governmental organizations receive multilateral population assistance from the UN Fund for Population Activities (to which the U.S. is a major contributor).

V. SECURITY

In order for democratic and economic development to take place, the Armed Forces of El Salvador (ESAF) must be capable of establishing a secure environment within which the Salvadoran people can peaceably implement socio-economic reform and resolve their political differences through democratic and pluralistic processes. In pursuit of this goal, the Armed Forces and Security Forces of El Salvador face a formidable challenge from an array of guerrilla groups differing somewhat in ideology and methods but united under the umbrella of the FMLN.

The ultimate goal of the Farabundo Marti National Liberation Front (FMLN) is to bring down the existing government of El Salvador through guerrilla warfare and a coordinated political strategy to gain international recognition and support.

There are indications that the militia component of the guerrillas has been receiving increased training and arms which has contributed to an increase in the far left's military capabilities since 1981. Improvement is also noticeable in such areas as communications and demolition. Many guerrillas, however, would be vulnerable to an effective psychological warfare program, and would be expected to return to land or jobs in government-controlled areas if their personal security could be assured.

The FMLN's military strategy amounts to a war of attrition against the Salvadoran economy, the political structures and the Armed Forces. The guerrillas have targeted key installations and lines of communication (bridges, highways, processing plants, telecommunications and electrical infrastructure) as well as export crops and commercial transport vehicles. Their military targets generally have been small, isolated military and security force outposts. More recently, larger and better trained, but unseasoned, government units and garrisons have been targeted. In September and December, guerrillas attacked the capitals of San Miguel and Chalatenango Departments. The ultimate aim is to bring down the government through total economic collapse, political breakdown and/or demoralization of the military from the bottom up.

The FMLN's political strategy consists in part of attempting to discredit the electoral process. They have agreed to negotiate with the government, but insist on power-sharing rather than participation in the elections as the basis

for a negotiated settlement. This, combined with their insistence on integrating existing guerrilla units intact into the Salvadoran Armed Forces and purging the Salvadoran Army leadership, is likely seen by the FMLN as a prelude to the consolidation of power by the far left.

The success of the FMLN political strategy is dependent upon successes on the battlefield sufficient to force Salvadoran government officials into power-sharing as their only chance for survival. The FMLN's ability to use propaganda effectively to create pressure internally and on allies of the Government of El Salvador is integral to this strategy.

A. Military Situation

Salvadoran government strategy since June 1983 has centered on a National Campaign Plan, especially in the area of current national priority -- San Vicente and Usulután departments. Primary objectives in this strategy have been to dislodge the guerrillas from strongholds, disrupt their logistic networks, secure the guerrilla-controlled areas, and, in coordination with civilian agencies, initiate a civic action program to rebuild the social and economic infrastructure. This program consists of reopening schools, building roads, establishing public health and vaccination programs, distributing food, conducting outreach and amnesty programs, and training local civil defense forces to protect themselves following the departure of the military.

The Salvadoran military faces sharp competition for its resources and manpower. On the one hand, static defense is needed to protect key targets such as railroads, bridges and the harvest. On the other hand, the military needs to engage in offensive operations of varied scale to reduce the guerrillas' freedom to operate and keep them off balance.

When the military has conducted aggressive patrolling, it has had success. When this has not occurred, the FMLN guerrillas have been able to mass and in selected areas to move uncontestedly. The Army's command and control system has exhibited some coordination breakdowns and a lack of detailed planning and timely responsiveness at the general staff and departmental level. Other shortfalls exist in the areas of mobility and transport, medical care, and operational and logistic planning.

During the summer of 1983, the Armed Forces acted with initiative and vigor on the battlefield and saw a great measure of success from the National Campaign Plan in San Vicente. This was due in large part to active patrolling and a visible military presence throughout the countryside. Beginning in

early September, the guerrilla forces mounted a counteroffensive lasting through November which met with limited success and encouraged a propensity by the military to adopt a "defend and respond" posture.

The recent successful guerrilla attack on the Fourth Military Brigade headquarters at the garrison near El Paraiso in Chalatenango Department, and the destruction of the Cuscatlan Bridge across the Lempa River were setbacks for the government forces. They were, however, localized in both time and impact. They do not indicate any new capability of the guerrillas either to extend the area of their influence or to control areas they strike, although they do indicate improved coordination and communications, professional military training and extensive logistics systems. Two other major guerrilla attacks launched in Chalatenango simultaneously with that on the Fourth Military Brigade were repulsed by government defenders with a marked display of courage and tenacity.

The overall result on the battlefield has been a continued stalemate. Although morale within the guerrilla forces and the Salvadoran military has fluctuated with performance on the battlefield, neither the guerrillas nor the Armed Forces are in any danger of disintegrating. Government forces, while able to deploy anywhere in the country, have not been able to deal a decisive blow to the guerrillas. The guerrilla forces cannot hold static positions in the face of a concerted government effort.

Recent key command and staff changes, and improved government command and control by the General Staff, have begun to facilitate more vigorous operations under new and aggressive commanders. Still, additional force expansion, enhanced mobility and communications, and training of government forces is needed to continue to improve the government's military posture and achieve a more favorable force ratio to prosecute successfully this type of war.

B. Assistance Requirements

The FY 1984 military assistance program has been designed to assist the Salvadoran Armed Forces (ESAF) in their goals of destroying the guerrillas' will and capability to fight, while protecting the economic infrastructure and reestablishing public order.

Proposed acquisitions, with U.S. assistance, of military materiel and services would have a direct impact on the economy by improving security and protecting the economic infrastructure from attack. In addition, by contributing to establishing a secure environment conducive to development, military assistance helps the government continue the process of social, political and economic reform.

The program is intended to help correct substantial deficiencies which currently prevent the Armed Forces from securing all of the economically important and populated areas of the country on a sustained basis. The Armed Forces are fully committed to a promising new Salvadoran-designed strategy to take the war to the guerrillas and pacify the countryside in order to allow the nation to redevelop along democratic lines. Since 1979, the Armed Forces have tripled in strength and comprise the following: an army of approximately 26,000; a navy of about 500 (including a naval commando company); and an air force of some 500 personnel. The Public Security Forces (National Guard, National Police, and Treasury Police) number approximately 10,000 in total strength. During FY 1983 alone, the Armed Forces increased by nearly 7,000 men and in FY 1984 the projected increase is about 6,500. These increases will permit the establishment of 36 highly mobile, small (350 man) "counter-subversion" battalions. A sufficient level of security assistance is essential if these goals are to be achieved. A review is currently underway to determine this level.

The specific objectives to be served by military assistance programs are to:

- provide resources necessary to maintain a viable fighting force;
- continue to modernize, standardize and professionalize the force;
- enable El Salvador's government to maintain the edge over the guerrillas, receive technical and professional military training, and to purchase needed defense articles;
- help the military to project successfully the National Campaign Plan to the entire country through continued force expansion, increased operational capability, effectiveness and efficiency; and
- provide sufficient supplies of ammunition and other materiel to enable the ESAF to maintain troops actively patrolling in the field rather than in a defensive posture.

The quick reaction capability of the ESAF could suffer from insufficient funding for the acquisition of helicopters, small troop transport aircraft and vehicles. These factors are of considerable importance to maintaining command and control over troops in the field, with implications for both the counter-guerrilla effort and the effort to control human rights abuses.

C. Refugees and Displaced Persons

Military strife in El Salvador continues to displace large portions of the population. An estimated 58,000-67,000 Salvadorans have taken refuge outside their country. This is approximately 42 percent of the total refugee population in Central America and roughly equal to the number of Nicaraguan refugees. Some 18-20,000 Salvadorans have crossed the border into Honduras; 10-12,000 are in Mexico; 15-18,000 are in Costa Rica, and 15-17,000 are in Nicaragua.

An estimated additional 465,000 Salvadorans, or nearly ten percent of the population, are internally displaced. Most of the displaced persons reside with friends and relatives away from areas of conflict. Others have built temporary settlements on unoccupied land throughout the country. Some live in special camps administered by the Roman Catholic Church or other organizations. Approximately seventy-five percent of the estimated displaced population receives assistance from the Government of El Salvador through its National Commission for Displaced Persons (CONADES). Private local as well as international contributors are helping those displaced. The International Committee of the Red Cross (ICRC) assists displaced persons in areas inaccessible to other relief organizations because of the conflict.

The living conditions of displaced persons vary greatly, depending on factors such as their willingness to register for assistance with CONADES, their economic well-being prior to displacement, and the public infrastructure in the area where they have settled. Similarly, infrastructure and available management help explain some of the differences even among camps run by the same group. In general, however, the living conditions of the Salvadoran displaced persons are considered to be as bad as for any of the groups uprooted by the conflict in Central America.

The United States has been working to improve conditions in the camps and contributed \$10.5 million for this purpose during fiscal years 1982 and 1983. Congress has earmarked \$10 million of FY 1984 funds for the displaced persons of El Salvador. Working through the UN World Food Program, CONADES, and international and local private voluntary organizations, the U.S. Government has provided some of the basic necessities for the refugee population which is registered with CONADES.

The principal U.S. humanitarian assistance effort is the Emergency Health and Jobs for Displaced Persons Project. This project provides preventive health and other medical assistance and cash employment in small community and camp improvement

projects. P.L. 480 commodity assistance provides basic food supplements to displaced persons participating in the work programs. The World Food Program also provides P.L. 480 food aid to persons residing in camps throughout the country.

The ultimate goal of U.S. policy remains the speedy and voluntary return of refugees and displaced persons to their homes. In this regard, efforts of the Government of El Salvador toward democratization and ending the guerrilla threat are important requirements for establishing a climate of peace and development in those areas from which the displaced and refugees have fled.

In the shorter term, much remains to be done to improve health facilities, to provide employment, to reach those people who do not currently receive adequate assistance, and to improve the delivery of basic commodities to displaced persons.

Specific initiatives currently being pursued by the U.S. are to:

- help develop effective public health programs in the areas where displaced persons have settled;
- encourage coordination among the 26 different groups providing assistance to displaced Salvadorans; and
- encourage an international organization or a private non-government group to assume the role of overall coordinator of the programs for Salvadoran displaced persons. (The local PVO Coordination Committee has begun to meet and discuss coordination issues.)

The U.S. Government will continue to work through international organizations such as the UN and the ICRC, and through private voluntary organizations to ameliorate the overall living conditions of refugees and displaced persons.

Current
Policy No. 533

Vice President Bush

U.S. Condemns Salvadoran Death Squads

December 11, 1983



United States Department of State
Bureau of Public Affairs
Washington, D.C.

Following is the toast by Vice President Bush at a dinner hosted by Salvadoran President Alvaro Magana in San Salvador, El Salvador, December 11, 1983.

Mr. President, I have been most impressed by your warm hospitality. You have welcomed me as a friend. I hope you will permit me, in that same spirit of friendship, to use this occasion to convey to you and your fellow countrymen some thoughts from my own perspective and that of President Reagan.

The American people have developed a great admiration for the people of El Salvador. You are on the front lines fighting for liberty against communist aggression. The extraordinary 80% voter turnout in the Constituent Assembly elections of 1982 demonstrated your people's deep faith in democracy even under the most difficult of circumstances.

Mr. President, I know that you share that faith. I know that you and many other Salvadorans are personally committed to democracy, reform, and human rights. But in your struggle to bring peace and justice to your people, you have more than one enemy. The brave Salvadoran patriots who are now fighting to build their new democracy are under attack not

only from communist guerrillas supported from abroad but also from extremist rightwing terrorists, the death squads, that small group of people within your own society who operate outside the law.

A guerrilla war is a long, arduous effort fought on many fronts: military, economic, social, and political. But the crucial battle is not for territory; it is for men's minds. The guerrillas never lose sight of that objective. They know the government is responsible for protecting the people. So their goal is to cripple the government, distort its priorities, and sow doubt about its legitimacy.

For a government to survive a guerrilla challenge, it must continue to protect its citizens even as it fights to defend itself from those who play by other rules—or no rules at all. As it does, it must continue to respect the rule of law and the rights of the individual. And it must honor basic human decencies. If it does not, it will lose that crucial battle for the support and approval of the people.

Mr. President, you and many other Salvadorans have demonstrated extraordinary personal courage in the struggle against tyranny and extremism, but your cause is being undermined by the murderous violence of reactionary minorities.

Tom Pickering's [U.S. Ambassador to El Salvador] remarks—which I greatly admire and which the President and I both fully endorse—were right on the mark. These rightwing fanatics are the best friends the Soviets, the Cubans, the Sandinista *comandantes*, and the Salvadoran guerrillas have. Every murderous act they commit poisons the well of friendship between our two countries and advances the cause of those who would impose an alien dictatorship on the people of El Salvador. These cowardly death squad terrorists are just as repugnant to me, to President Reagan, to the U.S. Congress, and to the American people as the terrorists of the left.

Mr. President, I know that these words are not those of the usual dinner toast. My intention is not to abuse your hospitality nor to offend you and your other guests. I speak as a friend, one who is committed to your success—the success of democracy in El Salvador. And I owe it to you as a friend to speak frankly.

We in the United States have never asked that others be exactly like us. We're a nation that is constantly debating its own shortcomings. But on certain fundamental principles, all Americans are united.

-2-

I ask you as a friend not to make the mistake of thinking that there is any division in my country on this question. It is not just the President; it is not just me or the Congress. If these death squad murders continue, you will lose the support of the American people, and that would indeed be a tragedy.

Mr. President, your brave people and mine have so much in common. Your land reform has our full support, and your staunch resistance to communism has earned our great respect. Now is the time to move vigorously to consolidate the

democratic gains you have made and to establish fully functioning democratic institutions in El Salvador.

The people of El Salvador have shown the world their courage and commitment to democracy by turning out to vote in overwhelming numbers despite communist death threats, and they have done honor to the democratic tradition through their dynamic political debate and action in the Constituent Assembly. The presidential elections the assembly has scheduled for March 25 will strengthen your society and

confirm the bonds between our two peoples.

Mr. President, I offer a toast to the Salvadoran people: may they soon come to enjoy the long deferred peace and prosperity they deserve. ■

Published by the United States Department of State • Bureau of Public Affairs
Office of Public Communication • Editorial Division • Washington, D.C. • December 1983
Editor: Colleen Sussman • This material is in the public domain and may be reproduced without permission; citation of this source is appreciated.

Appendix B

Thomas R. Pickering
United States Ambassador to El Salvador
Address before the American Chamber of Commerce
in San Salvador
November 25, 1983

I am pleased to follow a Salvadoran tradition by making my first general address to the American Chamber of Commerce. I hope my remarks are as interesting and stimulating to you as those of my predecessor proved to be.

Since I have arrived, my new Salvadoran friends have frequently asked me how I like El Salvador. I like it very much. This is a beautiful country. The people are friendly, hard-working and courageous.

But I think what they really are asking is this: How do I see the current situation? How do I see the future? And, perhaps most importantly, does my presence mean American policy has changed?

A new Ambassador in a country of El Salvador's importance makes these questions obvious and natural. This speech will try to answer them.

The policy question is perhaps the easiest.

The truth is there is no change.

Last April President Reagan outlined our policy before a joint session of Congress. It is clear, straightforward and easy to remember because of the four "Ds" describing the four pillars of our policy: democracy, development, diplomacy, and defense.

Permit me to begin with defense, because without an adequate defense none of the other areas of the policy can survive. But even a perfect defense, a "military victory," assures neither long range security nor the basic goals of political and economic change shared by El Salvador and the United States.

So, with the caveat that our policy cannot rest on defense alone, I would like to share my views on the military situation with you.

Your armed forces have demonstrated great valor in confronting an elusive enemy under difficult circumstances. Their real accomplishments have too often been ignored while at times they have been harder hit on the front pages of the newspapers than they have by the guerrillas."

The truth is that over the past three years the armed forces have greatly advanced as a fighting force. Even so, both the armed forces and the U.S. still recognize there is a considerable distance to go. For example, just over 20 percent have received U.S. training.

Since June the Salvadoran military has been constantly in the field, beginning first in San Vicente Department, where three months of steady effort have laid a solid foundation for the National Plan.

The plan was designed to provide security, followed by rebuilding the infrastructure, resettling refugees, and finally by instituting and continuing the economic development of the country. The plan is working. It is working despite the fact that nothing of this magnitude has ever been attempted here and much has had to be learned. It is working despite the new guerrilla offensive.

As for the long-predicted guerrilla offensive, the capacity of the guerrillas to initiate frequent actions against small and weakly-defended or undefended villages and towns is inherent in the nature of the struggle. Warfare in El Salvador has been so in the past, and until training and equipment can turn the balance, it is likely to remain so.

The army's reaction to the offensive has been much better than commonly assumed. They have managed to relieve or retake more than 75 towns attacked by the guerrillas within 6 to 36 hours. They have stayed in the field. They have improved their capacity for patrolling, conducted several counteroffensives, and are steadily improving their communications, air support, and the use of intelligence.

While the Army has gotten stronger and improved and consolidated its position, the guerrillas, too, continue to be strong. It is clear that the guerrillas have received good training and considerable foreign advice and support. They have good communications systems and a good intelligence network.

But for all that, and in spite of not having to defend fixed installations or bases, the guerrilla victories have been those of propaganda rather than of military effect. They have not significantly enlarged their control over the population, the economy or the national territory. Their offensive has cost them blood and war materiel. They are short on supplies in some key areas and there are signs the offensive may be winding down.

For the future, the carrying of the San Vicente operation into its next stage in Usulután and retaking the initiative nationwide are vital. We are convinced that the government and the armed forces intend and have the capability to do so.

One unknown element in the future of the military conflict is the question of how successful we will be in persuading the Congress to provide the funds for continued assistance and training. But this is a point I will discuss in connection with human rights. First I would like to discuss economic development.

We are beginning to see some small, early signs of positive change in the economy. It is far too early to be even guardedly optimistic. But it is soon enough to begin to point out some of the favorable signals.

While all the results are not in, it appears that the disastrous decline in the real growth rate -- 25 percent in the past four years -- will be arrested this year. For the future, we intend to change our approach and target our assistance programs on the positive growth we believe possible.

- Recent estimates of agricultural production indicate that earlier predictions were too low.
- There have been some imaginative suggestions made on reviving Salvadoran industry.
- The Caribbean Basin Initiative -- the Reagan Plan -- provides a new door which is open to large and increasing American markets. We are encouraged by the fact that in spite of the tough conditions which must be met, Salvadorans are taking a hard and energetic look at how to compete in the world's richest market. Progress in taking advantage of the initiative in the coming year would do much to restore faith and dynamism to the economy. This is a clear challenge to you in the private sector to combine support for the country with personal enterprise.

- There is animated, and I hope serious, discussion about agricultural diversification.
- The economic part of the national plan is moving ahead, albeit slowly and with growing pains.
- Other signs, however small, are also encouraging. The U.S. economy and parts of the world economy are improving. Coffee quotas and prices are up slightly. Salvador has received a larger share of the U.S. sugar quota. The housing market in San Salvador is firmer, and there are other indications of internal economic strengthening.

There are also indications that the long, bitter debate on agrarian reform may be coming to an end. As you know, support for agrarian reform remains a cornerstone of U.S. policy since we believe it essential to social and economic progress. So we are heartened when, in our discussions with each of the political parties, we find broad consensus on the fundamentals of agrarian reform. All of the parties seem to agree that:

- Phases I and III should be completed and perfected. They cannot and should not be reversed.
- There should be greater equity in land tenure and reasonable limits on the amount of land that any individual or family can hold. Since the Government of El Salvador does not now have the wherewithal to carry out Phase II, a market mechanism which takes into account the needs of campesinos should be implemented in order to achieve these ends by a given date.

We believe that an effective compromise on agrarian reform in the Constituent Assembly is well within reach. Such an action on the agrarian reform would further solidify U.S. support for El Salvador. It would also "unfreeze" Phase II lands. It would permit investment and productive development for the future, while providing new opportunities for landless campesinos to enjoy the benefits of holding their own farms.

Finally, we support a balanced budget, new taxes required to cover deficits, and then increase in government austerity so that essential expenditures can be covered. The government deserves congratulations and support for its steps in this direction.

For all of this, we must not forget what remains to be done:

- To rebuild what is destroyed;
- To generate new sources of employment and production;
- To expand humanitarian relief for refugees;
- To improve foreign exchange reserves;
- To rebuild the regional common market;

--- And, perhaps most importantly, to renew efforts to improve the lives of the poor through nutrition, education, access to health facilities and decent housing.

Strengthening democracy here in El Salvador presents the toughest and the most important challenge. President Reagan listed this aspect before all others in his address last April.

As with headline writers, we are all too often tempted to focus only on sensational events or the bad news, while the small quiet steps that add up to progress are overlooked.

Let's look at the signs. The Assembly has become the nation's arena for healthy and vigorous public debate. This is as it should be. The Assembly has been much maligned for taking too long to resolve issues before it. But I would counsel patience. What we are witnessing is a phenomenon that is new for El Salvador -- open debate in a body where there is no permanent majority, and where the outcome is not a foregone conclusion.

Coalitions form around specific issues only to break up and coalesce in different shapes. The Assembly has shown its mettle by taking on controversial issues such as a painful but necessary tax package, the extension of Phase III of the land reform and the amnesty program. The Constituent Assembly has set presidential elections for March 25, 1984, thereby fulfilling the goal of the Pact of Apaneca. These elections are essential for establishing a constitutional democracy with a mandate to govern effectively.

The United States Government unreservedly supports these elections and applauds the Assembly's action. We remain firmly committed to helping the Salvadoran government hold free and honest elections such as those of March 1982, which won the respect of democratic governments the world over. We are already providing \$3.4 million in assistance to the Central Elections Council.

Democracy has registered gains in other areas:

- The executive and judicial branches of Government have recognized the serious need for judicial reform and both have named commissions to deal with the problem and recommended changes.
- The democratic labor movement has begun to lobby forcefully but peacefully on issues it considers of vital importance. Such activity is intrinsic to any truly democratic society. It is a tribute to the growing maturity of Salvadoran democracy that the government has allowed peaceful demonstrations of labor's growing strength to take place.
- The Peace Commission has held initial contacts with the representatives of the guerrillas. While the guerrilla's rejection of election participation has been discouraging, the democratic forces in El Salvador have made it clear that the door remains open to those who wish to resolve the nation's problems through the democratic process. There is room for moderates on both sides to come together.

But for all these signs of progress, the essential stumbling block to democracy in El Salvador remains extremist terror.

In the last few months this terror has once again surged. This terror can undo all the progress which has been made. It can destroy democracy in El Salvador.

I don't care what their ideology is, my government and I are opposed to terrorism, be it terrorism of the left, terrorism of the right, or simple criminal terror which knows no ideology.

The important thing is that the terrorists are murderers, torturers and kidnappers. As such they deserve nothing less from society than open and honest punishment for such crimes.

There is information available to many of us about some of the personalities involved. I am keenly aware that much of that information may not at present be sufficient for a court of law. My deep concern is that no one seems to be trying to develop evidence which would stand up in court. There is now a starting point. We are certain that these individuals are as well known to the security forces as they are to those of us who have been in the country only a short time. In fact, information has been recently published in the foreign press repeating much of what is already known about death squad activities.

There has been little doubt of the commitment of the authorities to dealing with terror by the FMLN. There may be lack of means, but there is no lack of resolve. What has distressed my government is the lack of parallel action against those who murder and kidnap university professors, doctors, labor leaders, campesinos and government workers. We know by their selection of victims and other information that the Maximiliano Hernandez Martinez Brigade and the secret Anti-Communist Army are not guerrilla organizations. It is another case of fascists serving the Communist cause and this is all the more reason why the investigations must take place.

None of us can afford to continue in the self-deluding belief that nothing is really known about the shadowy world of these individuals and, therefore, nothing can be done. The cost is too great for both our nations.

The costs indeed are real. The U.S. Congress has reduced this year's military aid to El Salvador by \$22 million and conditioned the remainder. (Our President's request for \$86 million in military aid has yielded only \$64 million.) There is little doubt that the reappearance of death squad activities was the cause.

What does the loss of \$22 million mean?

- It means that your homes, farms and businesses will have less protection than they otherwise would have.
- It means that the army will expand by several thousand troops less than it otherwise would have.
- It means that the troops who are fighting for your country in the hills right now will have to get along with less and that surely more officers and men will be wounded and die as a result.

But more than \$22 million in bullets and helicopters and training is at stake. The future of your society is at stake. No one wants to live in a country where no efforts are made to find out who dumps bodies in gas stations and parking lots. No one wants his children to grow up in fear that almost anything his children say may be taken as "subversive."

Just over a year ago, in this very forum, my predecessor focused his remarks on this same topic. I am sorry to say that while there has been increased recognition of the problems of the judicial system here, too little has changed.

It was said by some that his remarks did not reflect Washington's views on the matter. But I say this is clearly not so. The White House, the Department of State, and Department of Defense have all spoken out condemning the actions of the death squads. The President of El Salvador, the Political Commission and the Minister of Defense have all condemned the death squads.

Some day, and today is not too soon, Salvadorans will have to begin to create the national consensus that such actions are not only reprehensible merely as a matter of rhetoric, but are issues on which they and their fellow citizens must be heard. What is wrong should not only be called wrong, there should be a national consensus that it is wrong.

I am surprised that the consensus has not emerged. Less than three weeks ago nine strangled bodies stuffed into sacks were found in Zaragoza. Among the dead were two obviously pregnant women. Is there anyone in this room who can find any pretext, any excuse, to justify this? Where are the condemnations? Why hasn't the private sector, which regularly issues statements on political matters, publicly condemned such outrages? Why haven't the daily papers done so? Is the condemnation of murder the business only of human rights organizations, some government leaders, the Roman Catholic Church and the U.S. Government and its embassy? The whole world noted, how, this October 21, one million Spaniards in over 40 cities peacefully demonstrated their repudiation of violence.

Failure to take the necessary steps now risks turning El Salvador over to anarchy in the short run and later to the Communists who will benefit most from the anarchy.

For the moment those in a fool's paradise may cite examples of places where terror supposedly turned the tide in favor of stable, but autocratic, governments. A neighboring state comes to mind, but its condition is no less perilous today for such actions. These short range successes have almost always engendered long-range disasters and it is most often the left that enters with its own form of tyranny as a result. While the events of 1932 may have engendered some years of stability, they form part of the background for the problems of today.

Several times during the last century the United States has itself had to deal with the murderous excesses of secret terror squads like the Ku Klux Klan. Even now shabby remnants of that hate-filled organization continue to exist. The struggle to break the power of the Klan organization was long and painful. Brave men and women lost their lives in that fight. The struggle was difficult for many of the same reasons that your struggle is difficult. The organizations are secret. They do

not hesitate to intimidate or kill those who oppose them. And perhaps most importantly, too many "decent people" refuse to recognize that these terrorists are not espousing any social or political order worth upholding. You can be certain that my government will continue to cooperate with the Government of El Salvador to isolate and punish such criminals.

My words on these issues are no easier for me to say than they are for you to hear -- especially since I count myself a friend of El Salvador. Even though I have been here only a short time, I believe the time has come for me to say, as a friend, what I believe to be true and to say what must be said.

And what I have said here has been said to me in turn by many Salvadoran friends. Out of fear or other emotion they have not said so publicly. However, I can do no better, and certainly no worse, than to repeat for you here and now, as I just have, the clear meaning of these discussions with friends.

It is clear that the perilous and depressed times in which El Salvador and Central America now find themselves, provide the leaders of the region with extraordinary challenges. We do not focus enough on the historically unprecedented opportunities which these times also provide.

The common heritage and common geographic conditions of the region have frequently offered not a case for unity but a cause for competition, even armed competition. Likewise, there has at times been a lack of a sense of shared purpose with their great neighbor to the north, with Mexico, and with the equally dynamic nations to the south, Panama, Colombia, and Venezuela.

The coming together of the five Central American nations with their four neighbors in the Contadora process is an important development in the search for a solution to regional problems. It is unfortunate that the proximate cause of this unprecedented diplomatic event is the tension injected onto the Central American mainland by Nicaragua. Nonetheless, the reliance on diplomacy through the Contadora process is a milestone in the development of relations among the countries of the region.

The common adversity faced by the democratic countries of Central America has strengthened regional solidarity. The principles developed by the Central American Democratic Community at San Jose provide not only a formula of peace for the region but also a basis for solidarity. We support and welcome the skillful diplomacy of the leaders of the democratic nations of Central America. Particularly we salute President Alvaro Magana and Foreign Minister Fidel Chavez Mena for their efforts toward regional solidarity.

The increasing level of political cooperation in Central America provides a framework for cooperation and future progress. First and foremost this is true in the economic arena. The free enterprise systems of the four countries have shown remarkable resilience in dealing with a series of economic blows that would have crippled many states, including those with the centrally directed economies of the communist world. We in the United States are now pledged to help through the Caribbean Basin Initiative, through support for the Common Market and through long-range development plans being studied by the Bipartisan Commission and others.

Markets are essential to this effort. We must all recognize that the small, fragmented markets of the individual Central American countries will not by themselves be able to provide sufficient economic growth in the years ahead. Maximum advantage must be taken of the 17 million-person regional market. The integration of this market contributed to real growth of well over five percent a year in all Central American Common Market member countries during the 1960's. But, of even more fundamental importance, the countries of the region should increasingly reach out to the great markets of the United States, Europe and Japan. Competing in these markets, however, requires more than simple production. It requires the sort of environment towards which El Salvador is striving -- one in which businessmen, laborers, and campesinos have confidence in the security of the enterprises to which they dedicate themselves. One in which there is respect for their rights under the law -- both personal rights and property rights. When the rights of anyone are treated recklessly, then all have reason to fear and the very environment which is essential to future prosperity is destroyed.

To close my thoughts tonight, it may well be that in years to come historians will look back on this time of great challenge to Central America as a decisive period in the region's history. A period when the nations under challenge responded by strengthening their democratic and pluralistic institutions, developing new levels of economic dynamism, and a new sense of how best to protect their own security.

This will also be, I hope, a period when Central America enhances its cooperative relationships with its nearest neighbors. This is the hope of my country for the region and for El Salvador.

I am glad to be joining you all in this endeavor, an effort based on our respect for one another as individuals and on our Nations' respect for one another as sovereign independent states.

APPENDIX C

STATEMENT BY THE MINISTER OF DEFENSE OF EL SALVADOR
GENERAL CARLOS EUGENIO VIDES CASANOVA
San Salvador, November 2, 1983

(Excerpt)

...Our people have been treacherously attacked by the Marxist forces of Nicaragua, Cuba and Russia, with the complicity of others. These forces have burned our crops destroyed our infrastructure and industry, and murdered our people. However, despite the terrorist tactics employed against them, the Salvadoran people have not faltered and have continued their struggle to fight for the cause of freedom. The armed forces of our country are fighting alongside the people to protect and defend them from these criminal attacks. Although they face many problems in their war for a fervently desired peace, our forces are still sufficiently strong and they retain their unshakeable determination to support a democracy that will enable us to fully exercise our rights as citizens in complete and unrestricted freedom.

Democracy is a political system for which no equal has yet been found, or even a comparable replacement. Moreover, it is the most human system of government because it allows for the full realization of personal potential, equality among people, and the satisfaction of individual and collective needs. Accordingly, we are happy to note that the National Constituent Assembly has finished the long and necessary study it conducted for approval of our Constitution. With this document, the aspirations of all Salvadorans have become reality, and we have become a nation under the rule of law, a necessary step if our society is to enjoy peaceful coexistence and a rule to which the free peoples of the world voluntarily submit. We were among the first to consider what this new charter of liberties should contain, and we will be the most ardent defenders of its continued existence and observance, because we are convinced that his document will give reason to our lives.

I have clearly stated our unwavering determination to combat terrorist acts and organizations, whenever and wherever they occur, and regardless of their political persuasion, because no such acts or organizations are justifiable; they are, rather, aberrant expressions of the excessive and selfish ambitions of certain persons who seek political power at any cost.

The death squads must disappear forever to prove our determination to combat them and our faith in the democratic process. All Salvadorans must oppose and denounce them so that they will not only be illegal but condemned by everyone. As one voice we must proclaim that no cause can justify their existence.

Those persons who resort to ignoble activities do so because they have lost their moral force and are attempting to subdue us through physical force and terror. The fact that the enemy is using perfidious, illegal methods does not in any way authorize anyone to ignore legal and moral precepts and attempt to impose their own will through fear.

In view of the foregoing I would like everyone to be fully aware that the armed forces are determined to make the members of those terrorist bands answer to the law, regardless of their identity or any reasons they may give to justify their illegal activities. We will do this in order to fulfill our commitment to the Salvadoran people, the only power to which we have an obligation.

There is no such thing as democracy through terror because one negates the other. Either there is respect for the individual and the legal system or else we sink into the depths of the law of the jungle, in which case we may very well destroy democracy and cease to exist as a freedom-loving people.

The only reason for an armed force to exist is to protect the people, and therefore abuses of authority should never occur. Such abuses would be contrary to the essence of the armed forces' mission. In order to prevent such a situation from arising there are regulations that clearly and fully govern the conduct of the armed forces and cover the various situations in which our prestige, our mission, and our sincerity could be compromised. All members of the military must therefore abide by those regulations.

I have read articles in some publications that were authorized by the death squads in which attempts are made to justify illegal actions and the Ministry of Defense is warned not to interfere with their ominous goals. I would like to respond to them by stating that I will never approve of the inhuman, illegal methods that they are attempting to use and that I am very well aware of the duties and responsibilities imposed upon me by my position and no person or force can prevent me from performing my duty.

I have strong convictions and I will fight for them now and always regardless of the price I have to pay, because I will never betray our people's noblest aspirations or the honor of the armed forces.

Appendix DDeclaration of the Salvadoran Armed Forces
on the Issue of Death Squads

The High Command of the Armed Forces of El Salvador and the commanders of the military and public security forces of the country in a meeting held on December 13 of the current year unanimously declare:

1. Their absolute endorsement of the declarations and decisions made by the Minister of Defense and Public Security General Carlos Eugenio Vides Casanova regarding the "death squads", since they reflect the thinking and sentiments of all the members of the Armed Forces.

2. Call on the Salvadoran people to provide to the competent authorities any information that contributes to the identification and capture of the death squads.

3. Reiterate our firm decision to fight the death squads and the terrorist groups with all the means at our disposal until they are definitively eradicated from our country.

4. Urge the judicial system to apply the maximum force of the law to these terrorist groups, whether they be of the left or of the right, reiterating again their total support.

(Signed)

Col. Adolfo O. Blandon, Chief of Staff of the Armed Forces;
Gen. Rafael Flores Lima, Vice Minister of Defense and Public Security;
Col. Jaime E. Flores, Commander, 1st Infantry Brigade;
Col. Oscar E. Casanova Vejar, Commander, 2nd Infantry Brigade;
Lt. Col. Domingo Monterrosa, Commander, 3rd Infantry Brigade;
Col. Ramon A. Morales Ruiz, Commander, 4th Infantry Brigade;
Lt. Col. Roberto Rodriguez Murcia, Commander, 5th Infantry Brigade;
Lt. Col. Julio Cesar Yanez L., Commander, 6th Infantry Brigade;
Lt. Col. Leopoldo A. Hernandez, Commander, Artillery Brigade;
Lt. Col. Oscar Campos Anaya, Commander, Cavalry Regiment;
Major Jose Azmitia Melara, Acting Commander, Atlacatl Battalion;
Lt. Col. Napoleon H. Calitto, Commander, Atonal Battalion;
Lt. Col. Rene Emilio Ponce, Commander, Belloso Battalion;
Lt. Col. Roberto M. Staben, Commander, Arce Battalion;
Lt. Col. Rolando R. Ramos, Commander, CITFA;
Lt. Col. Mario Denis Moran, Commander, CIIFA;
Lt. Col. Jorge A. Cruz, Commander, CICFA;
Col. Juan R. Bustillo, Commander, Air Force;
Col. Roberto de J. Monterrosa, Commander, National Navy;
Col. Saul Zelaya, Commander, Maestranza;
Lt. Col. Carlos A. Araujo, Commander, D.M. I;
Lt. Col. Carlos A. Rivas, Commander, D.M. II;
Lt. Col. Miguel A. Vasconcelos, Commander, D.M. III;
Lt. Col. Oscar Amaya Perez, Commander, D.M. V;
Col. Jose Dionisio Hernandez, Commander, D.M. VI;
Lt. Col. Augusto C. Maravilla Reyes, Commander, D.M. VII;
Col. Luis Adalberto Landaverde, Director,
Military Academy "Capt. Gen. Gerardo Barrios";
Col. Aristides Napoleon Montes, Director, National Guard;
Col. Carlos R. Lopez Nuila, Director, National Police;
Col. Nicolas Carranza H., Director, Treasury Police;
Col. Tomas H. German, Director General, National Firemen.

Appendix EARMED FORCES ORDER ON ELECTIONS
January 3, 1984

Beginning on December 8, 1983, and in accordance with the constitutional statutes in effect, the electoral campaign commenced throughout the country in preparation for the March 25, 1984 elections for president and vice president of the republic.

In the past 4 years the Armed Forces have promoted and supported the democratization process and have directed all their efforts toward the creation of the necessary institutional instruments allowing this process to occur within an orderly framework of democracy and political respect for our citizens. The Constitution promulgated on December 20, 1983, and its political, economic and social provisions are the manifest will of the Salvadoran people. The Armed Forces guarantee their respect and have promised to see that everyone respects these provisions.

Our Constitution orders the Armed Forces to maintain peace, tranquility, public security, and the fulfillment of its provisions and other laws in force, guaranteeing that the republican form of government and the representative democratic system will be maintained and especially guaranteeing free suffrage and respect for human rights. To fulfill these mandates, Article 212 establishes that the Salvadoran Armed Forces are a permanent institution which is essentially apolitical.

Based on this, the Defense and Public Security Ministry issues the following order:

1. All commanders, chiefs, officers, and components of the Armed Forces will maintain an absolutely apolitical position in the civic electoral process and will not undertake any partisan participation or adopt a position favoring any political party in the contest. Thus, our members will express to the citizens their emphatic desire and firm conviction to respect the mandates stemming from our constitution. Since the structural strength of our institution is our firm unity, any violation of this order will be considered harmful to the Salvadoran people and an attack on the organizational existence of our institution.

2. Together with their aides, all commanders must prepare regional plans guaranteeing the electoral process in each of their sectors of responsibility under guidelines to be established by the Armed Forces High Command. These plans will be requested by the General Staff to facilitate drawing up the national security plan for the electoral process. This plan will define the Armed Forces' constitutional attitude regarding the historic process our citizens have already begun.

3. All the commanders, chiefs, and officers will provide every guarantee that the political parties officially require in an equitable, egalitarian, and neutral manner.

4. Any violation of the current provisions by any member of the Armed Forces or any attempt at sectarian penetration in our organizations must be reported immediately to this organization to allow for an immediate and fitting response.

5. All commanders, chiefs, and officers will henceforth give the Central Elections Council all support within the law to guarantee the Salvadoran people a free, legitimate, and pure electoral process.

6. The commanders, chiefs, and officers must make known to their subordinates the content of this order, emphasizing its constitutional origin and strengthening the civic conviction of our components to profess utmost respect for the free political will of our people.

San Salvador
January 3, 1984

General Carlos Eugenio Vides Casanova
Minister of Defense and Public Security

APPENDIX 2

DEPARTMENT OF STATE REPORT ON STATUS OF LAND REFORM IN EL SALVADOR PURSUANT TO SECTION 101(B) OF THE SECOND CONTINUING RESOLUTION FOR FISCAL YEAR 1984, PUBLIC LAW 98-151, JANUARY 25, 1984

THE SECRETARY OF STATE
WASHINGTON

January 25, 1984

Dear Mr. Speaker:

Section 101(b) of Public Law 98-151 (the second Continuing Resolution for Fiscal Year 1984) makes the provision of ten percent of military assistance to El Salvador contingent on certification to Congress by the President that the Government of El Salvador is making documented progress on completing its land reform program and has taken no action detrimental to the rights of certain beneficiaries under that program. The President's authority under Section 101(b) has been delegated to the Secretary of State.

I hereby transmit to you the certification on land reform required under Section 101(b). A study on Salvadoran land reform providing the justifications for the certification is also enclosed.

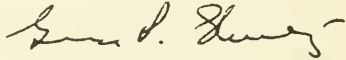
Promotion of land reform stands at the very heart of El Salvador's effort to encourage social equity, political stability and economic development. It has our strong support. Progress in this area often has been painful. Two Americans -- Michael Hammer and Mark Pearlman -- as well as numerous Salvadorans have given their lives to help achieve these goals. Despite violent opposition from both left and right, the firm commitment of the Government of El Salvador has not diminished. Over the past four years much has been accomplished and the overall record of the land reform program in El Salvador is one of significant progress. Today, some 25 percent of El Salvador's rural poor -- over 550,000 individuals -- have benefited. El Salvador's new constitution, enacted in December 1983, protects and expands this reform.

I am pleased to certify that the Government of El Salvador's land reform program has met the statutory criteria for certification. Moreover, that government's resolve to continue to address the problems of the land reform program is equally commendable. This resolve is extremely important since continued managerial, financial and political support is vital to the long-term viability of the land reform program.

The Honorable
Thomas P. O'Neill, Jr.,
Speaker of the
House of Representatives.

The Administration's support for land reform similarly continues unabated, and a significant portion of our assistance to that country is directed toward this goal. We look forward to continued close coordination with the Congress on this issue, which is important to the overall success of our efforts in El Salvador.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "George P. Shultz", written in a cursive style.

George P. Shultz

Enclosures:

1. Certification
2. Study

THE SECRETARY OF STATE
WASHINGTON

January 25, 1984

Dear Mr. Chairman:

Section 101(b) of Public Law 98-151 (the second Continuing Resolution for Fiscal Year 1984) makes the provision of ten percent of military assistance to El Salvador contingent on certification to Congress by the President that the Government of El Salvador is making documented progress on completing its land reform program and has taken no action detrimental to the rights of certain beneficiaries under that program. The President's authority under Section 101(b) has been delegated to the Secretary of State.

I hereby transmit to you the certification on land reform required under Section 101(b). A study on Salvadoran land reform providing the justifications for the certification is also enclosed.

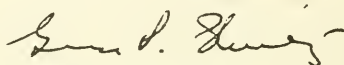
Promotion of land reform stands at the very heart of El Salvador's effort to encourage social equity, political stability and economic development. It has our strong support. Progress in this area often has been painful. Two Americans -- Michael Hammer and Mark Pearlman -- as well as numerous Salvadorans have given their lives to help achieve these goals. Despite violent opposition from both left and right, the firm commitment of the Government of El Salvador has not diminished. Over the past four years much has been accomplished and the overall record of the land reform program in El Salvador is one of significant progress. Today, some 25 percent of El Salvador's rural poor -- over 550,000 individuals -- have benefited. El Salvador's new constitution, enacted in December 1983, protects and expands this reform.

I am pleased to certify that the Government of El Salvador's land reform program has met the statutory criteria for certification. Moreover, that government's resolve to continue to address the problems of the land reform program is equally commendable. This resolve is extremely important since continued managerial, financial and political support is vital to the long-term viability of the land reform program.

The Honorable
Charles H. Percy, Chairman,
Committee on Foreign Relations,
United States Senate.

The Administration's support for land reform similarly continues unabated, and a significant portion of our assistance to that country is directed toward this goal. We look forward to continued close coordination with the Congress on this issue, which is important to the overall success of our efforts in El Salvador.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "George P. Shultz", written in a cursive style.

George P. Shultz

Enclosures:

1. Certification
2. Study

DEPARTMENT OF STATE
WASHINGTON

January 25, 1984

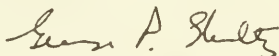
SUBJECT: El Salvador Land Reform Certification

Pursuant to Section 101(b) of Public Law 98-151 and Executive Order 12163, as amended, I hereby determine and certify:

(1) that the Government of El Salvador has not taken any action which would alter, suspend, or terminate the land reform program for phase I or phase III promulgated under Decree 154 (dated March 5, 1980) or Decree 207 (dated April 28, 1980) in a manner detrimental to the rights of the beneficiaries or the potential beneficiaries under those decrees; and

(2) that the Government of El Salvador continues to make documented progress on implementing the land reform program.

This certification shall be reported to Congress immediately and shall be published in the Federal Register.



Secretary of State

EXECUTIVE SUMMARY

1983 was a year of important consolidation and forward movement in El Salvador's four-year effort to bring about a profound and more equitable distribution of land ownership and agricultural wealth.

Prior to 1980, ownership of farmland in El Salvador was concentrated in the hands of a small number of plantation owners and absentee landlords. 70 percent of all farmers were sharecroppers, laborers on the large plantations, or owned fewer than thirteen acres of land. Few farmers owned the land they worked, and there was a surplus of unskilled labor. Rural poverty prevailed side by side with a highly successful agricultural industry.

The civilian-military government that came to power in 1979 pledged itself to address the problems of land tenancy and passed a set of sweeping reforms. In March 1980 the largest farms were transformed into agricultural cooperatives and a system of compensation was established for the previous owners. One month later procedures were established to enable sharecroppers and tenant farmers to become the owners of the land they had worked. These basic reforms were incorporated into El Salvador's new constitution in late 1983, when the Constituent Assembly also established a ceiling on the maximum amount of land that a single owner could hold, giving owners three years to sell land above this limit.

This ambitious land reform program is restructuring patterns of land ownership in order to redress the inequities of the past, respond to the legitimate grievances of the rural poor, and promote more broadly based growth in the agricultural sector. In short, the land reform program has been enacted for reasons of social equity, political stability and national development. The ultimate goal is to develop a rural middle class with a stake in El Salvador's peace and prosperity. The challenge is to achieve this fundamental restructuring without causing a crippling loss of production or severe political fragmentation.

Despite numerous problems, not the least among them left and right-wing violence, much has been accomplished. In four years, over 92,000 Salvadorans have received land either individually or as member of cooperatives. Including their families, more than 550,000 people have benefitted from the agrarian reform, and over 23 percent of El Salvador's total farmland has been transferred to those who previously worked

the land but did not own it. These gains are somewhat diminished by evictions of claimants and by the abandonment of some farms, especially in contested areas. However, as more farmers file petitions for land and as eviction disputes are resolved and security restored, the number of beneficiaries can be expected to increase.

In light of the land reform's massive reorganization of productive resources, ownership patterns and established marketing relationships, reduced output was inevitable. Nonetheless, it is difficult to segregate the impact of the reform on agricultural output from the impacts of other factors such as bad weather, depressed international prices and the guerrilla war. Although total area planted has decreased steadily since the reform's inception (8.1 percent) and average yields for the nation are mixed (but generally down from 1980), the reformed sector's average yields equal or exceed those of the nation as a whole. This leads to the conclusion that whether total production is up or down, the factors affecting it are affecting the reformed and non reformed sectors more or less equally, exonerating the reformed sector from the accusation that it is a drain on society. In fact, in all major export and domestic crops (except sugar cane and rice), Phase I reformed sector yields exceed national averages.

The political impact of the reform has been substantial. More than 10 percent of El Salvador's total population and perhaps 25 percent of the rural poor have benefitted. Enactment of the land reform removed one of the key appeals used by the violent left to attract the rural poor. By mid-1981, after the failure of the guerrillas' "final offensive," the popularity of the violent left began to wane. By March 1982, Salvadorans in rural areas turned out in record numbers to vote for a constituent assembly in elections opposed by the guerrillas. There is general agreement that land reform was a critical factor undercutting the far left's potential political support.

Not unexpectedly, however, progress has often seemed halting and painful. The issue has polarized some political sectors. Those who lost their land in the reform process have fought against the program -- some within the political arena, some with illegal evictions, and some with violence. Many questions remain to be answered. There are problems concerning compensation of former owners, payments to the government for the compensation, and titling. The quality of farm management and debt restructuring are critical factors in the success of the large cooperatives. Production must be increased. Illegal evictions must be halted. And security must be assured throughout the country so that the farmers can plant and work their land in peace and so that the crops can be processed and marketed.

The overall record, however, is one of significant progress. The Government of El Salvador and the Armed Forces of that country have solidly backed land reform, and the government continues to make documented progress in implementing the program. The new constitution protects the agrarian reform, and the Legislative Assembly has extended the time during which small farmers can file for land under the program. The process of filing for land and issuing titles continues apace.

I. BACKGROUND

El Salvador's land reform began in March 1980 when, by decree, the largest farms were transformed into agricultural cooperatives and procedures were established to turn small farms owned by absentee landlords over to the sharecroppers and tenant farmers who worked them.

El Salvador's challenge was to achieve this major restructuring without causing a crippling loss of production or severe political fragmentation. The United States, which shared these objectives, strongly supported the land reform program in El Salvador from its inception.

El Salvador is predominantly an agricultural nation. According to World Bank statistics, in 1979 more than 50 percent of the labor force was engaged in agriculture, and the output of farm labor represented some 30 percent of national production. That same year, exports of coffee, cotton and sugar represented about 60 percent of all exports. Corn, beans, sorghum, rice and sugar were also produced for domestic consumption. Yields for all crops were among the highest in Central America, in spite of the need for extensive fertilization and irrigation in many parts of the nation.

Ownership of farmland in El Salvador was traditionally concentrated in the hands of absentee landlords or, in the case of the largest farms, a very small number of plantation owners. In 1979, more than 40 percent of the land was owned by less than one percent of the population; 70 percent of all farmers were sharecroppers, laborers on the large plantations, or owned fewer than thirteen acres of land. Campesinos generally did not share in the benefits of El Salvador's high agricultural production and growth in the agricultural sector.

Rural poverty prevailed in the context of a highly successful agricultural industry. USAID estimates that more than one million persons residing in rural areas of El Salvador were below the "absolute poverty line" in 1980, as opposed to about one-quarter of that number for urban areas. Land reform was not conceived to be a panacea for this poverty. The fact that El Salvador has the highest population density of any nation on the Western Hemisphere mainland precluded such a sweeping single solution to a complex problem. But by opening the land up to ownership through cooperative arrangements and government-established purchase plans, land reform could help the more than 2.3 million rural inhabitants achieve a more direct participation in El Salvador's agricultural economy.

In the early 1970's, the Salvadoran Communal Union (UCS), the first effective organization of farmers, joined with other farm groups to advocate land reform. Largely as a result of their efforts and those of other reformers, in 1976 the administration of President Molina began an innovative land reform program. In the end, however, implementation of the reform was blocked by entrenched and politically powerful ownership interests, especially among the cotton growers. Frustration of this effort radicalized a number of campesino leaders, with ominous portents for the future.

II. THE REFORM PROGRAM, 1980-1982

The ultimate goal of the land reform program begun in 1980 is to develop a rural middle class with a stake in El Salvador's future peace and prosperity. In contrast to their pre-reform condition, these farmers would have membership in a cooperative organization responsible only to its members, or would be small individual landholders, with increased incentive and responsibility for their output and increased control over their lives. These beneficiaries also would participate more fully in El Salvador's money economy, creating new demand for domestically produced goods, as opposed to the old owners who spent a high percentage of their income on imported consumer goods.

Phase I

Decree 153 of March 5, 1980, established the government's basic goals and methods of carrying out its land reform program. It specified the land to be affected, how the value of the properties was to be determined, the amount and form of compensation to farm owners, and the type of cooperative organization to be established to own and manage the properties. Decree 154 of the same date expropriated with compensation all properties in excess of 500 hectares (1,235 acres). Together these two decrees comprise Phase I of the land reform program.

All 194 properties in El Salvador in excess of 500 hectares in 1980 were affected, as well as an additional 232 properties which did not exceed 500 hectares, but which belonged to owners who held multiple landholdings in excess of the 500-hectare total. The decree established the Salvadoran Institute for Agrarian Transformation (ISTA) as the implementing agency for the agrarian reform. These 426 properties represent over 15 percent of the country's arable land. They have been encompassed in 317 cooperatives with over 31,000 members. Including family members, approximately 188,000 people, or 8 percent of all peasant families, have directly benefited.

Phase II

Decree 153, the basic agrarian reform law, provided for a second phase which was originally to affect properties in the 100 to 500-hectare range, which includes many of the country's most productive farms. In mid-1980, however, then-president Jose Napoleon Duarte announced the government's intention of deferring the implementation of Phase II for an unspecified period of time. In order to preserve future implementation, owners of properties of Phase II size were prohibited from mortgaging or selling their land. Many landowners complained that Phase II's uncertain status left them without the incentive to invest in their land.

Phase III

Phase III of the land reform affects land that was rented at the time of the proclamation of Decree 207 in April 1980. Under Decree 207, tenant farmers may claim up to seven hectares (17.3 acres) of the land which they worked as of May 6, 1980. Its purpose is to provide the many landless and tenant farmers in El Salvador with more secure access to land and a stake in the society, by giving them title to the land they had been working. A secondary objective is to improve land usage through direct owner cultivation.

The period for filing applications under Decree 207 was originally scheduled to expire in April 1981, but has been extended three times. Most recently, on December 27, 1983, it was extended to June 30, 1984. Many of the small rented plots covered by this program are located in the more remote and mountainous areas of northern and eastern El Salvador where surveying is difficult and where the guerrillas are strongest, thus inhibiting farmers from making claims and making adjudication and delineation of claims difficult.

Initially, administrative responsibility for Phase III was assigned to ISTA. Implementation of Phase III lagged some eight months behind Phase I because ISTA personnel were fully committed to their Phase I duties. The National Finance Office for Agricultural Lands (FINATA) was created to be the implementing agency for Phase III. FINATA receives Decree 207 applications, evaluates them, arranges for compensation to previous owners and issues titles. Unlike ISTA, it has no co-management or technical service responsibilities.

Of an estimated maximum of some 117,000 potential Decree 207 beneficiaries, 60,733 persons had filed petitions for land as of late-December 1983. Including family members, more than 364,000 Salvadorans have moved under Phase III toward ownership of the land they work.

III. CURRENT STATUS

There was considerable concern during 1982/83 that the Constituent Assembly would pass articles in the new constitution that would have reversed or endangered the reforms. This did not happen. After particularly heated debate, Phases I and III are now protected by the Constitution and Phase II has now been effectively enacted.

The importance of the action of the Constituent Assembly should not be underestimated. The agrarian reform decrees were issued by a provisional government and required suspension of provisions of the then existing constitution. Now, the duly elected Constituent Assembly has enshrined the concept of agrarian reform in the nation's constitution. In addition to ratifying Phases I and III, the Assembly has ratified the principle that there will be a limit on the amount of land that any individual or family can hold.

The first step of Phase I is complete. All farm holdings over 500 hectares have been transformed into cooperatives by the Government of El Salvador. ISTA, the main implementing agency for Phase I, now has co-management responsibilities for 317 cooperatives encompassing some 426 properties. About 40 cooperatives farmed under Phase I have been abandoned due to violence in the countryside. Well over half of the abandoned farms are located in the provinces of San Vicente and Usulután. However, since the start of the National Campaign Plan in San Vicente, some cooperatives have been reactivated and others are seeking loans to resume planting.

All of the functioning cooperatives currently are being run by boards of directors composed of campesino cooperative members. ISTA assigns a co-manager to each of the cooperatives to assist with financial and management decisions. Because the Phase I cooperatives are large, complex businesses that require the assistance of someone with an extensive knowledge of credit flows, financial management, accounting procedures, world commodity markets and basic agricultural methods, ISTA is an essential ingredient in the Phase I effort. In most cases, the basic elements are in place, yet much remains to be done. Former owners must be compensated, titling must be completed, and management must be improved as well as profitability. All these areas require significant additional resource commitments. And those cooperatives which have been abandoned because of the fighting must be made secure from guerrilla attacks and reopened.

Phase II is clarified by the new Salvadoran constitution promulgated on December 20, 1983. The constitution establishes a ceiling of 245 hectares (605 acres) on the amount of land that an individual can own. It gives affected owners up to three years to sell property in excess of the limit to campesinos or campesino associations. The land may not be sold to close relatives by either blood or marriage, and any purchaser is subject to the same constitutional ceiling on cumulative ownership. The state is empowered to expropriate without prior compensation any excess land not disposed of by the owner within the three-year period. Various observers estimate the amount of excess land affected by the new Phase II ceiling to be between 30,000 and 70,000 acres.

The deliberations and action taken by the Assembly in 1983 were a healthy display of democratic compromise. Campesino groups lobbied hard to maintain a land ownership ceiling of 100-150 hectares for Phase II, the actual limit depending on land quality. Others asserted that Phase II targeted the most productive and entrepreneurial class of owners of medium-sized farms and should not be implemented. There was concern that the Salvadoran government did not have the financial or technical capacity to undertake a sweeping expropriation of these properties.

The final compromise implements the reform in a manner that enables present landowners to know what will happen to their land and allows them to plan for the future. With the clarification of Phase II, it is anticipated that production on farms in this category will increase significantly. Most importantly, after four years of controversy, El Salvador has defined its objectives for Phase II by a democratic process and that phase can now be implemented.

Phase III is not yet complete, and was extended for a third time on December 27, 1983. The 60,733 direct beneficiaries who have filed title petitions represent at least 53 percent of those estimated to be eligible. Throughout the country farmers are now on their way to owning the land they previously sharecropped or rented. Over the past four years, a total of 55,287 provisional titles and 5,456 definitive titles have been issued. Some 228,230 acres, slightly more than six percent of the total land in farms, has been affected.

The Salvadoran Government continues to support aggressively Phase III. During the past six months:

- 9,867 farmers have filed applications;
- 12,872 provisional titles have been issued;
- 3,003 definitive titles have been granted.

The action taken December 27, 1983, by the Legislative Assembly extending the application period through June 30, 1984, will provide an additional opportunity for the filing of applications by potential beneficiaries who may have been hindered by guerrilla violence or owner resistance.

The government continues to honor its obligation as provided for in agrarian reform legislation to compensate former owners of land affected by the agrarian reform. Compensation in Phase I of the reform is in long-term interest bearing bonds for land, and a mix of cash and short-term bonds for livestock, machinery, and equipment. As of November 1983, compensation paid on 203 of the 426 properties totaled the equivalent of \$120.1 million, including \$9.1 million in cash, and \$111 million in bonds. Interest payments on Phase I bonds now stands at \$14.9 million.

Cash compensation in Phase III is now the equivalent of \$2,262,200, and \$321,200 in interest payments on Phase III bonds has been paid. As of December 1983, the number of property owners compensated stood at 499, an increase of 394 in 1983. The compensation schedule on Phase III transactions is 50 percent cash and 50 percent bonds for affected properties under 100 hectares. For properties over 100 hectares, the compensation schedule is 25 percent cash and 75 percent in bonds. Phase III compensation as of December 1983 in bonds and cash totaled the equivalent of \$9.68 million.

The Salvadoran Government has indicated that its 1984 budget will include the equivalent of \$20,353,240 for agrarian reform compensation. The government continues efforts to make bonds a more attractive instrument of payment. Interest coupons can be used to pay some taxes, and are traded (at a discount) on a secondary market. In cooperation with the private sector, the government is investigating ways in which the bonds would be directly traded in exchange for shares in businesses now publicly owned.

IV. IMPACT ON PRODUCTION

Agricultural production is a function of the area planted and the average yield which is realized. Nationally and within the reformed sector these variables and the resulting production have been mixed by commodity but generally have tended downward since the beginning of the reform, but most noticeably in crop year 1982/83. Table I shows the area planted for the traditional and the reformed sectors by commodity in the three years since the reform began.

TABLE I

AREA PLANTED: Traditional vs Phase I
(manzanas; 1 mz = 1.7 acres)

	1980/81		1981/82		1982/83	
	<u>Reform</u>	<u>Trad.</u>	<u>Reform</u>	<u>Trad.</u>	<u>Reform</u>	<u>Trad.</u>
Corn	21,748	395,474	22,893	372,294	12,734	328,612
Sorghum	7,740	163,397	4,292	160,822	2,433	167,689
Rice	4,722	19,316	5,866	13,879	4,292	11,733
Beans	7,583	67,391	6,009	65,101	3,101	75,689
Coffee	31,191	233,507	27,185	237,513	27,614	237,084
Cotton	28,044	55,229	27,328	47,646	23,179	48,361
Sugar	15,166	24,324	15,734	23,465	18,314	26,756

The number of manzanas planted in the nation as a whole has dropped by about eight percent since crop year 1980/81. The total area dedicated to basic grains production in 1982/83 was almost 12 percent less than 1980/81. The most significant declines in basic grains acreage were in the Phase I reform sector. For the nation as a whole, acreage declines since 1980/81 in export crops were generally less than for basic grains (1.6 percent), although cotton acreage has dropped sharply since 1979/80. Export crop acreage in the reformed sector dropped by about seven percent between 1980/81 - 1982/83, with the steepest declines in cotton acreage. The declines in acreage in the reformed sector closely parallel the drops in acreage for the nation as a whole, indicating that factors other than the reform may be responsible for reductions in area planted.

Table II contrasts average yields for the traditional sector and the Phase I cooperatives by commodities since the reform began in 1980/81. The first column presents average yields for the nation as a whole for the three years preceeding the reform (1977/78-1979/80).

TABLE II

YIELDS: Phase I vs Traditional Sector
(quintales¹ per manzana²)

	<u>Pre-1980 average</u>	<u>1980/81</u>		<u>1981/82</u>		<u>1982/83</u>	
		<u>Reform</u>	<u>Trad</u>	<u>Reform</u>	<u>Trad</u>	<u>Reform</u>	<u>Trad</u>
Corn	28.4	45.0	26.5	35.0	27.0	30.0	26.2
Sorghum	17.5	26.2	17.4	21.2	17.8	15.6	13.5
Rice	51.9	47.4	56.7	51.1	56.9	36.1	46.4
(unhulled)							
Beans	11.7	11.5	13.7	15.1	11.4	11.8	10.4
Coffee	15.0	12.9	15.8	16.2	13.0	19.1	10.7
(oro)							
Cotton	33.3	34.6	28.4	31.3	33.8	38.8	28.3
(rama)							
Sugar cane	52.1	56.1	46.5	55.8	52.8	51.0	63.4
(short tons)							

1 One quintal equals 100 lbs.

2 One manzana equals 1.7 acres.

In almost all cases, the Phase I cooperatives have achieved yields better than or equal to the national average in the corresponding year. Phase I cooperative yields exceeded traditional sector yields in 1982/83 for all crops except sugar cane and rice. Compared to pre-reform national averages, only rice yields are off significantly in Phase I cooperatives, while coffee and cotton yields for 1982/83 were significantly higher than pre-reform national averages.

Table III presents agricultural production by commodity for the traditional versus Phase I reformed sector from 1980/81-1982/83.

TABLE III

PRODUCTION: Phase I vs Traditional
(1,000 quintals¹)

	1980/81		1981/82		1982/83	
	<u>Reform</u>	<u>Trad</u>	<u>Reform</u>	<u>Trad</u>	<u>Reform</u>	<u>Trad</u>
Corn	978	10,470	800	10,068	383	8,617
Sorghum	203	2,838	91	2,859	38	2,262
Rice	224	1,096	300	790	155	545
Beans	87	924	91	741	44	786
Coffee (ORO)	404	3,690	440	3,035	527	2,496
Cotton (RAM)	971	1,571	854	1,610	899	1,371
Sugar cane (short tons)	851	1,132	879	1,238	934	1,696

¹ One quintal equals 100 lbs.

Overall, agricultural production of basic grains has declined, both in the nation and within the reformed sector, while production of export crops overall has increased. Basic grain production is down almost 24 percent across the nation, and by over 50 percent in the Phase I reformed sector. Export crop production is mixed for the nation as a whole (coffee down 26 percent, cotton down 11 percent, and sugar cane up 32 percent) but up overall by almost ten percent in the Phase I reformed sector.

General Observations on Production

Coffee. Coffee is El Salvador's most important crop in terms of foreign exchange earned and employment generated. Despite considerable stability in acreage planted, the reformed sector is achieving much better coffee yields than the traditional sector. Reformed sector yields in coffee have increased every year since the reform, while yields in the traditional sectors have declined. This trend probably

reflects the greater willingness of the reform beneficiaries to invest in their land, on which they have secure tenure. The traditional sector on the other hand has probably neglected significant investment due to uncertainty about the eventual disposition of their land, particularly land subject to Phase II of the agrarian reform, which was only recently resolved.

Cotton. Cotton production and acreage have decreased dramatically in the nation as a whole since the averages achieved in the three years prior to the reform. Increased yields probably indicate that much of the land removed from production was less productive land. The reduction in acreage in the traditional sector results from internal economic disincentives including low domestic prices, high labor costs, and considerable security risks in the major growing areas of the eastern part of the nation. In the reformed sector, these problems are compounded by the highly technical nature of cotton cultivation and the general unfamiliarity of campesinos with the business of cotton cultivation.

Sugar. The marketing situation for sugar cane is better than for coffee or cotton, aided by strong prices derived in part from the effects of the U.S. quota system. Total production in both the reformed and non reformed sectors has increased significantly since 1980/81. The slight drop in reformed sector yields may reflect the fact that some basic grains land has been converted to the more lucrative enterprise of sugar production.

Basic Grains. The production of basic grains has dropped significantly since 1980/81 in both the nation as a whole and on Phase I cooperatives. This was somewhat of an anomaly since it was initially expected -- and 1981/82 results and earlier 1982/83 projections bore out -- that basic grains production would increase on Phase I farms, or at least remain stable. Some of the drop can be explained by violence in the eastern departments which are traditional grain growing area, as well as by recent weather patterns in which droughts have heavily affected eastern departments. In addition, some basic grains acreage was shifted into sugar cane in response to high prices. Some of the decline is not readily explainable, and future research will focus on the Grain Marketing Institute (IRA), its price policies and the relationship between prices and costs.

V. PROBLEMS

El Salvador's land reform program was hastily planned and implemented in a society hampered by all the weaknesses and shortcomings typical of developing nations -- and was also under attack by armed guerrillas bent on the destruction of the economic infrastructure upon which rural development depends. Progress has been halting and painful, and, not surprisingly, the reform has polarized major segments of Salvadoran society. Those who lost in the process have fought against the reforms, some within the political arena, others with violence. Rodolfo Viera, the first president of ISTA, and two U.S. advisors, Michael Hammer and Mark Pearlman, were among the first tragic casualties. Many campesinos have since paid a high price in the conflicts inevitable to a society seeking rapid and fundamental change in its political, social and economic structure.

Decree 207, although an ambitious restructuring of land ownership, was not conceived to be a panacea for the rural poor. For instance, most beneficiaries will still have to supplement their income by working on the larger farms during the peak planting and harvest seasons for the major export crops. Moreover, since each beneficiary is entitled to lay claim only to the parcel he worked at the time Decree 207 became operative, there was no effort to ensure that each parcel was equal in value or productive capacity; the reform sought only to ensure that each beneficiary received land known to be workable and productive.

Phase I

Management

The quality of farm management is a critical factor in the success of agrarian reform cooperatives. Reformed property is co-managed by ISTA and the cooperatives or campesino organizations to which the holdings are allocated. ISTA first utilized personnel from the Ministry of Agriculture and related agencies. But because the size and scope of the assignment was underestimated, it has spread its personnel among various cooperatives on a part-time basis.

There is a direct correlation between the effectiveness and profitability of a particular cooperative and the presence of an aggressive, dedicated and technically competent ISTA co-manager. Accusations of incompetent ISTA managers are widespread and have had a negative impact on support for the reforms in general. Many farms where the original management has been retained are both more efficient and productive than those under ISTA's management teams. The Salvadoran government

is developing an alternative to ISTA co-management which would provide financing for coops to hire their own professional managers and accountants. This program is now well under way.

Security

Because destruction of the economy is a major part of the guerrilla strategy, production on Phase I cooperatives has suffered from destroyed assets, inability to move personnel and products, and guerrilla harassment. Some 40 cooperatives located in areas with strong guerrilla concentrations no longer function or operate only sporadically. In areas in which the guerrillas are active, cooperatives are sometimes forced to pay sums of money or provide food to them.

Continued efforts to provide security to cooperatives have had mixed results. The Salvadoran military has been able to protect the countryside at harvest time to ensure that the year's production gets to market. However, assigning sufficient force to the static defense of reform cooperatives year-round would sacrifice much of the military's offensive capacity and be self-defeating in the long run. The solution lies in further upgrading of Salvadoran military capacity and in extension of the National Plan to other sections of the country.

In San Vicente Department the Government of El Salvador initiated a major civilian-military effort -- the National Plan -- designed to provide security while restoring needed social services, such as electricity and schools. Restoring the area's cooperatives which had been hard hit by guerrilla activity to a functioning level is a key aspect of that plan. Five cooperatives have been reactivated, and there are plans to reopen others as the security situation improves.

Production Credit

Despite serious financial constraints, the Government of El Salvador has extended credit on a priority basis to Phase I cooperatives, the largest users of financing in the reformed sector. Since 1980, an average of 256 Phase I cooperatives have received about one-third of all the agricultural credit extended by banks and similar institutions in El Salvador: \$105 million in credit was provided to Phase I cooperatives in crop year 1980/81, \$78.1 million in crop year 1981/82, and \$77.2 million in crop year 1982/83.

Some cooperatives have not been able to repay production credits, largely due to adjustment problems following reorganizing action under the reform, an unfavorable security situation, low world market prices, the decapitalization of the farms immediately before the reform and other factors which have also depressed the entire agricultural sector.

At the close of the first year of the reform, 121 cooperatives were up to date on their bank loans and 140 were delinquent. However, those unable to pay had substantially smaller loans on average, so only 23.4 percent of the money was not paid on time. Of the delinquent borrowers, 121 were refinanced and 19 were not; the latter were cases in which the cooperative itself had been abandoned because of rural violence. The pattern for succeeding years was similar. On the whole, this record is probably no worse, and possibly better than the record of private growers.

The Land Debt

The cooperatives, through ISTA, are required, following a three-year grace period, to finance payment to the former owners for the land expropriated in 1980. The total debt of nearly \$300 million is equal to the amount paid by ISTA for the land, livestock, machinery and equipment left by the former owner plus anything invested by ISTA since 1980. The debt bears interest charges of 9.5 percent per year, and repayment is spread out for 20 to 30 years depending on the type of bonds issued to the former owners.

There is some doubt that all cooperatives will be able to repay the land mortgage as it is currently structured. Many of the cooperatives will need an increase in the grace period (three years from the time compensation value is established) both to overcome short-term illiquidity and ride out short-term problems in the world markets, the security situation, etc.

Titling

The original land reform decree contained explicit provisions for co-management by the cooperative members and ISTA for a period of up to five years, after which the cooperative presumably would have reached a level of self-sufficiency and technical competence adequate to operate with full autonomy. This co-management does not affect the legal rights to ownership of the members of the cooperative. Final legal title has not been withheld during the period of co-management, and at no time has ISTA or any other government entity had claim to ownership of cooperative assets.

The cooperatives were conceived as a kind of general partnership. This is conceptually the most appropriate form for an organization of co-equal members, but it implies numerous rigidities regarding the entry and exit of members, including identification of interest in the cooperative and valuation of each member's share. Many cooperatives have responded to this legal vagueness on an ad hoc basis, confident that any internal measure which represents the consensus of the majority of the members will also comply with legal requirements. Each member's specific ownership interest in the farm, in the form of a negotiable instrument or tangible property, is an issue that requires clarification.

Compensation

The land compensation process has been criticized as unfair and cumbersome. Payment has been slow, often as the result of owners' disputes with either ISTA or FINATA over reserve rights, boundaries, or valuation of improvements, livestock or machinery. According to some critics and ex-owners, the agrarian reform bonds are not liquid and have not provided ex-owners the ability to invest their capital in productive enterprises. There is a small market for the bonds, but most are trading at about half of their nominal value, with the 20 year bonds enjoying a better market. The bonds may be used to pay some taxes, including inheritance taxes. The Salvadoran government is now considering some proposals to broaden the demand for and usefulness of the bonds by allowing them to be used as collateral for industrial loans for new investments or to be exchanged for shares in government-held corporations.

As long as there exists a substantial body of former landowners who have not been compensated for the expropriated land, there will also be questions about title to the land and intense social conflict is inevitable. Salvadoran government resources are not fully adequate to the task.

Phase III

Transfer of Land

Unlike Phase I, in which all farms were taken over simultaneously in 1980, each beneficiary under Phase III must come forward to apply for ownership of the land previously rented. Transfer of land has not been self-implementing as some originally thought it would be, and many potential beneficiaries have yet to apply. In addition, compensation and titling have fallen far behind the application process. Compensation is critical since the land reform law permits final transfer of title only following compensation of the former owner.

Landowners affected by Phase III have resisted strongly, often with violence and forced eviction of campesinos. Many who have lost land under this phase are not wealthy, and there is some evidence that most violence and illegal evictions come from the former owners of the smallest, not largest, farms. Many landowners have filed "oppositions" with FINATA, thus contesting the campesino's claim and keeping the applicant from the land until the case is resolved. Campesino organizations complain that the adjudication process takes too long and is too often decided in favor of the landlord.

As of mid-December 1983, 53 percent of those estimated to be eligible by the Government of El Salvador had filed petitions for land. In July 1983, FINATA initiated a mobile campaign to increase the number of applicants as well as to quicken the compensation process and the granting of definitive titles. (See chart at Appendix A.)

Defining an evictee as anyone for whatever reason who is unable to work land to which he feels entitled, some peasant organizations have claimed that over ten thousand farmers have been evicted. In an effort to get an accurate measure of the dimensions of the eviction problem, the Government of El Salvador's Office of Agrarian Reform Evaluation (PERA) undertook a survey in June 1983. The study obtained estimates of the number of Phase III beneficiaries who had been illegally evicted from their lands by interviewing as many campesinos as possible on 330 properties chosen at random. (Evictees are defined by FINATA as those who had filed a Decree 207 application and subsequently been denied access to the property.)

PERA's results are as follows:

DIRECT PHASE III BENEFICIARY EVICTION RATES BY
REGION AND DEFINITION, JULY 1983

	<u>Regions*</u>				
	I	II	III	IV	Total
TOTAL APPLICANTS	19,895	13,225	5,762	12,484	51,366
EVICTEES	1,097	1,762	896	1,879	5,634
EVICTION RATE PERCENT	5.5	13.3	15.5	15.0	11.0

*Region I -- Ahuachapan, Santa Ana, Sonsonate
 Region II -- Chalatenango, La Libertad, San Salvador, Cuscatlan
 Region III -- La Paz, Cabanas, San Vicente
 Region IV -- Usulután, San Miguel, Morazan, La Union

Evictions of Decree 207 beneficiaries and "oppositions" continue to be problems. A comprehensive field survey has been undertaken to determine the dimensions of the illegal evictions problem, and FINATA with the cooperation of the armed forces has continued efforts to restore evictees and prevent further such abuses. Survey data show, however, that a significant proportion of evictions are not reported to authorities, making more difficult the reinstallation effort. A new survey is underway to determine the effectiveness of the reinstallation campaign.

Since clear title to the land for beneficiaries is tied to compensation to former owners, a key issue in reducing illegal evictions and violence is the provision of sufficient resources to the Government to speed up the compensation process. Because of the present restrictions in U.S. legislation, AID has to date been unable to assist in overcoming this problem.

Security

Implementation of Phase III, particularly in eastern El Salvador, has been delayed because of the guerrilla war. Phase III is nearest completion in those areas where guerrilla activity is least.

Credit

Small farmers in El Salvador have customarily had limited access to bank credit. The banks have been reluctant to lend because of the high-credit risks and the high costs of serving a large and dispersed group of small borrowers. But the government and the government-owned Agricultural Development Bank have provided special lines of credit to small farmers, especially Decree 207 beneficiaries.

The Land Debt

As of the December 1983, 499 ex-owners had been compensated for a total of \$9,684,747 for 9,845 separate parcels. Many Phase III ex-owners have contested the valuation assigned by FINATA; such a challenge often delays adjudication. The remoteness of some of the properties in question, the unscientific and informal boundaries owners have established, the precarious security situation in some areas, and the large number of claims to be processed also explain the slowness of the compensation process.

VI. PROBLEMS FOR THE FUTURE

The land reform in El Salvador has thus been neither an unqualified success nor an unmitigated disaster but highly positive in its overall impact. It has symbolized the government's interest in social justice and eased the intense political pressures that were growing in geometric proportions between 1978 and 1980. About one-fourth of the rural poor now have more secure access to land. But many problems remain to be resolved if the land reform is to have a permanent positive impact on El Salvador's social, economic and political development.

Production. Production of basic grains has dropped significantly since the reform (although export crop production has generally increased, except for cotton). Yields in the reformed sector for rice and sugar cane are below national averages. The cooperatives need more technical and financial assistance to improve the overall management of their lands and to insure timely access to credit and other inputs. Better extension services could bring the cooperatives up to national standards in yields, particularly for rice production. Improving producer incentives such as stable and remunerative prices and timely payment for all harvested crops would also improve production, not only in the reformed sector, but in the nation as a whole.

Diversification. The cooperatives face the same structural problem of over-dependence on a few basic crops as does the economy as a whole. Rising costs, flat world demand and depressed world prices have combined to severely reduce profitability in their production, but efforts are underway to encourage cultivation of non-traditional products such as fruits and vegetables, both of which have stronger domestic and international markets.

Environmental Conditions. Phase III beneficiaries in particular need greater technical assistance in the areas of crop rotation, intercropping, proper application of fertilizers and pesticides, terracing, planting live barriers, etc. in order to obtain maximum yields from their small plots without environmental degradation. While permanent tenancy implies greater attention to environmental aspects of production, environmental improvements are unlikely without technical assistance on an adequate scale.

VII. CONCLUSIONS

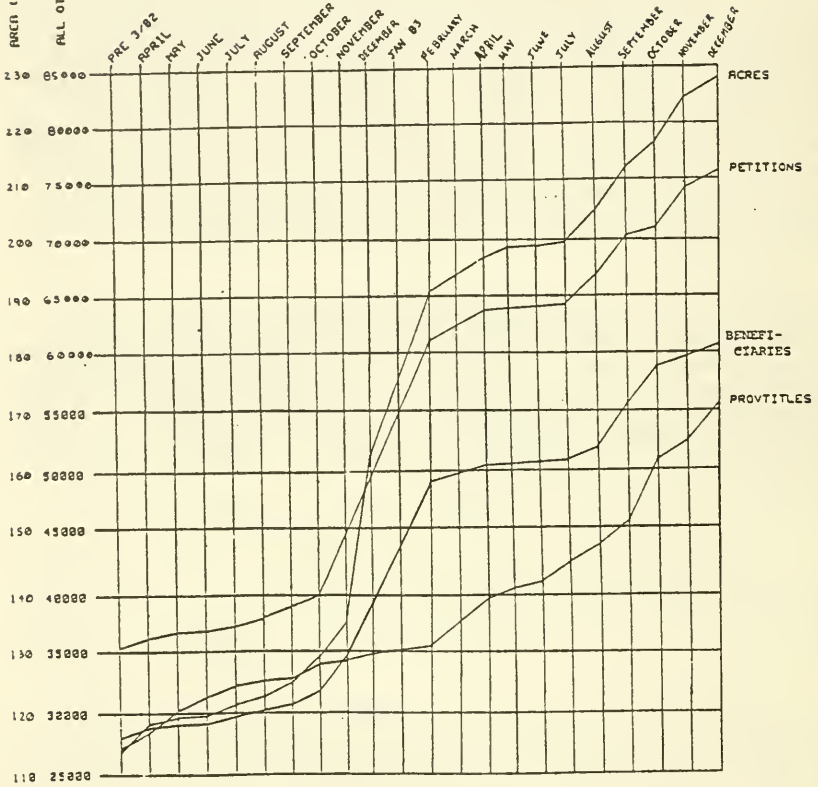
Despite these problems, more than 550,000 Salvadorans, including family members, who before had little economic status in their country now own land, either individually or as members of cooperatives. Enactment of the land reform has removed one of the key issues attracting the rural poor to the violent left. By mid-1981, after the failure of the guerrillas' "final offensive," the popularity of the violent left prior to the land reform began to wane. By March 1982, Salvadorans in rural areas turned out in record numbers to vote for a constituent assembly in elections opposed by the guerrilla forces. The importance of agrarian reform to the campesinos is evidenced by the vigor with which they and their organizations have lobbied the Constituent Assembly to extend Decree 207 and to protect the land reform in the new constitution.

Much remains to be done in order to resolve both the current and the long-term problems confronting the agrarian reform program. Yet a great deal has been accomplished thus far despite depressed world agricultural prices, bad weather, the destruction of the guerrilla war, and the violent opposition of the left and right. Constant attention, technical expertise, devotion of resources, and hard work will be necessary if El Salvador is to continue to build on the momentum of the past four years.

Appendix A

PHASE III: Beneficiaries, Petitions Filed,
Acres Affected, and Provisional
Titles Issued.

(cumulative totals)



APPENDIX 3

TEXT OF CABLE FROM U.S. EMBASSY IN EL SALVADOR REGARDING TUTELA LEGAL'S STATISTICS ON THE NUMBER OF NONCOMBATANTS MURDERED IN EL SALVADOR

1. Summary: We have discussed with Tutela Legal (TL) their violence statistics, their methodology for collecting information, and the categories they use in their reports. The most significant insight gained was that TL's figures on civilian deaths that occur during military engagements or operations (mostly of guerrilla "Masas") now account for almost 80 percent of TL's overall reported total of civilian victims of political violence. Actual death squad type political murders reported by TL have declined sharply. Indeed, when stripped of the civilian battlefield related deaths component, TL's political violence figures for the past six months are remarkably similar to the Embassy's political violence figures for the same period. End summary.

2. Sources: TL relies upon several sources for their monthly violence statistics. According to TL director Maria Julia Hernandez, TL's primary source is the testimonies of the victims themselves, the victims' families, and/or other eyewitnesses. These testimonies account for over 50 percent of TL's cases. (Other sources include reports from the justices of the peace, which account for 20 percent; Coprefa bulletins; information provided by church sources outside of San Salvador; and some (not all) newspapers accounts, which provided 10 percent.) TL insists that their standards for acceptance of personal testimonies are high; that is, the source must be an eyewitness to the act and must be willing to give a signed statement. They say that anonymous claims are not accepted, and that when multiple accounts are given for the same incident, the lowest figure is used.

3. TL declines to reveal to the Embassy (and presumably to anyone else) the identities of the eyewitnesses who provide over half of their information, stating that to disclose their sources would put the eyewitnesses in danger. It is, thus, impossible for us to determine, for example, the number of incidents each eyewitness has reported over time, the type of incident, their location, the average number of deaths reported in each eyewitness account, and to what degree, if any, eyewitness source may report guerrilla battlefield casualties as civilian deaths.

4. Civilian victims of political violence: TL readily acknowledges that this category includes the large numbers of people known as "Masas" (civilians who travel or live with the guerrilla, and provide them logistical or other support). TL alleges that the Salvadoran Army frequently single out "Masas" for attack. (Comment: Although TL regards "Masas" as unarmed civilians, some of whom even may be helping the guerrillas involuntarily, "Masas" do live in close proximity of and travel in the company of armed guerrillas. This intermingling with the armed insurgents makes them something more than innocent civilian bystanders when they and their armed companions come under fire during military engagements. End comment.) TL does not publish figures on guerrilla deaths, claiming not to have access to this information. In addition, TL claims to exclude from its count incidents in which it is impossible to differentiate between guerrilla and civilian ("Masa") deaths. (Comment: This assertion itself is a tacit recognition by TL of the close interrelationship and intermingling of armed guerrillas and their unarmed "Masa" supporters.)

5. Statistics: When one looks at TL's own analysis of their total for "civilian deaths" according to "perpetrator" and "circumstances of death," it becomes clear that the vast majority of the civilian deaths TL documents occur during military engagements or operations. The actual number of deaths attributed to death squads is a much smaller figure, and quite comparable to Embassy's statistics based on press reports. The following paragraph contains TL's statistics for "civilian deaths" analysed by "perpetrator" and by "circumstance" for the last six months of 1983.

Circumstance	July	Aug.	Sep.	Oct.	Nov.	Dec.	Total
Military encounter	196	198	333	250	354	477	1,808
Armed forces sweep (incl. bombings)	140			102	100		342
Arrested and taken from home	8	5	4	2	3	3	25
At home			6		1		7
Unknown	88	120	65	92	67	24	456
Taken out of a bus			1				1
Total	432	323	409	446	525	504	2,639

6. Comparing figures in these two tables, we note the following significant correspondence of numbers:

"Perpetrator"		"Circumstance of death"	
Unidentified death squads	445	Unknown	456
E.S.A.	4	Arrested	25
Security forces	56	At home	7
		Taken off bus	1
Total	505	Total	489
Army	2,091	Military encounters	1,808
Air Force	4		
Civil Defense	15	Armed forces sweeps, including bombings	342
Total	2,110	Total	2,150

TL's figures also clearly show that the actual figure for civilian deaths attributed to death squads, E.S.A. and the security forces (SOS) is only roughly 19 percent of TL's six months' total for all civilian deaths due to political violence (2639). They show further that death squad deaths have declined substantially since July 1983. The following is a comparison of TL's actual death squad figures and Embassy civilian deaths.

	Tutela Legal ¹	Embassy press tabulations on political violence ²
July	142	87
August	116	76
September	70	112
October	88	102
November	57	88
December	32	98
Total	505	563

¹ To arrive at the Tutela Legal total figure (505) for death squad type murders, we have combined the following three TL categories of deaths:

(A) By unidentified death squads—445.

(B) By E.S.A.—4.

(C) By combined security forces—56.

² To arrive at the Embassy civilian deaths figure noted here (563) we have deduced from our overall figures on political violence the relatively small number of civilians reported as killed in action (KIA). We believe this methodology provides a more realistic comparison between TL's and Embassy figures on political violence.

7. Tutela Legal itself has never claimed, to our knowledge, that the death squads were responsible for the 35,000 or so civilian deaths they say have occurred since 1979 and they have been open in publishing their analyses by circumstance of death, etc. However, the important distinction between civilian deaths, caused by death squads, and civilian (mostly "MASA") casualties resulting from military operations and engagements is lost in the reporting in the U.S. on violence statistics. Also ignored is the fact, borne out by TL's own figures, that civilian deaths attributed to the death squads have significantly declined. Pickering.

APPENDIX 4

AN AMERICAS WATCH REPORT



Protection of the Weak

and Unarmed:

The Dispute Over Counting

Human Rights Violations in

El Salvador

"The soldier, be he friend or foe, is charged with the protection of the weak and unarmed. It is the very essence and reason for his being. When he violates this sacred trust, he not only profanes his entire cult but threatens the very fabric of international society."

General Douglas
MacArthur confirming
the military court
death sentence for
General Yamashita,
1946

FEBRUARY, 1984

36 WEST 44TH STREET
NEW YORK, NY 10036
(212) 840-9460

Acknowledgments

Some of the information for this report was gathered by Aryeh Neier and Juan Mendez in the course of a brief trip to El Salvador in February 1984. It also reflects information-gathering by Messrs. Neier and Mendez in the course of previous visits to El Salvador and information-gathering in El Salvador by several other representatives of the Americas Watch. We express our thanks to the staff of the Roman Catholic Archdiocese of San Salvador and of its human rights monitoring office, Tutela Legal, for their assistance and to Ambassador Thomas Pickering and his staff for their assistance.

We are indebted to Robert Kogod Goldman, Professor of International Law and Associate Dean of American University Law School for his research and writing on which the section of this report dealing with international humanitarian law is based.

This report draws on several previous Americas Watch reports on El Salvador, particularly "U.S. Reporting on Human Rights in El Salvador: Methodology At Odds With Knowledge," June 1982.

Introduction

On May 20, 1983 the United States Department of State issued a statement denouncing a series of bombing raids that had produced a great many civilian casualties. "Such a massive and ruthless assault on people who are, for the most part, without any means of defending themselves is intolerable by any standards of civilized behavior." The statement, which was based on accounts of the bombings that had been provided by refugees, went on to say that, "We cannot stand silently by and witness this slaughter."

Although refugees from conflict zones and guerrilla-controlled zones of El Salvador regularly describe bombing raids that produce a great many civilian casualties, the State Department did not have El Salvador in mind when it issued this statement. Rather, the State Department was referring to attacks on the civilian population in Afghanistan. When it comes to El Salvador, the State Department has an entirely different attitude. Its views are reflected in a January 25 cable from the U. S. Embassy in San Salvador in which it referred to civilians whom it described as "masas." According to the cable the "intermingling with and support of the armed insurgents makes them something more than innocent civilian bystanders," when they are killed in bombings or in military operations.

Should civilians being killed in operations conducted by the Salvadoran armed forces be described in the terms the Department of State used in its May 20, 1983 statement about Afghanistan? Or should they be described in the terms used in the January 25, 1984 cable from the U. S. Embassy in San Salvador? These questions are central to the present debate between the Department of State on the one hand and the Roman Catholic Archdiocese of San Salvador on the other hand about the extent of human rights violations in El Salvador. In the view of the Americas Watch, the Archdiocese has much the better of the argument.

In this report, we explain our reasoning. We also call on the Department of State to alter its views and to engage in every effort to end what we consider to be gross abuses of internationally recognized human rights by the Salvadoran armed forces. In making this call, we note that, despite the skepticism that we have previously voiced, pressure from the United States appears to be having an effect in reducing killings by non-uniformed "death squads" in El Salvador. Here are the figures on death squad killings (as opposed to killings by the uniformed armed forces of El Salvador) and on disappearances (which resemble death squad killings) for the period January 1, 1983 through January 31, 1984, as compiled by Tutela Legal, the human rights monitoring office of the Roman Catholic Archdiocese of San Salvador:

1983	Death Squad Killings	Disappearances	Combined
January	186	56	242
February	95	32	127
March	170	33	203
April	139	48	187
May	144	90	234
June	76	67	143
July	94	57	151
August	116	37	153
September	70	48	118
October	88	23	111
November	56	23	79
December	25	21	46
TOTALS	1259	535	1794
1984			
January	22	16	38

Plainly there has been a decline in these kinds of human rights violations. The decline coincides with the arrival in San Salvador in the fall of 1983 of Ambassador Thomas Pickering. Under his leadership, the United States has substantially stepped up its pressure against these kinds of human rights violations. A notable aspect of this pressure was a December 11, 1983 visit to San Salvador by Vice President Bush in which he met with the country's 31 top military commanders. Though the exact details of this meeting have not been disclosed, the Americas Watch understands that the Vice President made explicit threats that U. S. aid would end unless death squad activity and disappearances were curbed. The statistics suggest that this meeting had an effect.

Though we applaud Ambassador Pickering's devotion to the effort to stop the death squads and to stop the disappearances, we are not ready to celebrate. First as we will discuss below, these are far from the only human rights violations in El Salvador. Second, 38 death squad killings and disappearances in January 1984 - while this is a lower figure for one month than any since 1979 - is still a staggering number in any rational context. As Ambassador Pickering would probably be the first to agree, celebrations should be postponed until such abuses end entirely. Third, unless the pressure is maintained, these numbers could rise again. Fourth, there is still no known instance in which a member of the regular armed forces of El Salvador has been criminally punished for a human rights violation and only one known instance in which a civil defenseman has been punished. Fifth, terror continues to prevail in El Salvador and will continue to prevail so long as such killings persist or as long as they could resume even if they should be brought to a halt.

Another factor in tempering our enthusiasm for what has been accomplished is that we believe that, if it could be done now, it could also have been done sooner. The very fact that it was U. S. pressure on the Salvadoran armed forces that has reduced the number of death squad killings and disappearances makes it clear that previous attempts by the Reagan Administration to exculpate the armed forces were

offered either in bad faith or in inexcusable ignorance.*
Thousands of Salvadorans died because this pressure was not
exerted earlier.

None of this gainsays Ambassador Pickering's achievement,
of course. He is entitled to the thanks of anyone concerned
about human rights for his efforts and for what he has
achieved so far. At the same time, those who are concerned
about human rights are entitled to ask that he turn his
attention, and that the Reagan Administration turn its
attention, to the many other grave human rights problems in
El Salvador including, but not limited to, the problem
addressed in this report - the killing of civilian
noncombatants by the armed forces of El Salvador in the
course of military operations.

The killings by the uniformed armed forces and civil
defense forces of El Salvador that Tutela Legal recorded as
human rights violations in the period from January 1, 1983
through January 31, 1984 are as follows:

1983

January	244
February	442
March	159
April	247
May	358
June	266

* As recently as August 3, 1983, Assistant Secretary of
State Elliott Abrams was quoted in The Christian Science
Monitor as saying: "The assumption that the death squads
are active security forces remains to be proved. It might
be right, though I suspect it probably isn't right." On
December 2, 1983, President Reagan said that he suspected
that death squad murders were actually committed by left-wing
guerrillas trying to smear El Salvador's reputation because
"the right wing will be blamed for it."

July	330
August	200
September	333
October	353
November	455
December	472
Total	3,859
January	241

Plainly, the statistics do not show the kind of decline shown in the statistics dealing with death squad killings and disappearances. It may well be even more difficult to reduce these human rights violations than it has been to reduce death squad killings and disappearances. That is no excuse for not trying. It is certainly no excuse for the efforts by the U. S. Embassy in San Salvador and by the Reagan Administration to portray these killings as legitimate killings by the Salvadoran armed forces.

Gathering the Statistics

Over the last few years, the U. S. Embassy in San Salvador has relied exclusively on the Salvadoran press for the statistics it compiles on political violence. Even in circumstances in which Embassy officials themselves investigate abuses and learn of killings not reported in the Salvadoran press, no adjustment is made in the reporting of statistics*. Embassy officials readily concede** that the statistics they report to Washington understate the violence because:

1.) the Salvadoran press obtains its information from justices of the peace and, the justices of the peace do not record all killings.

2.) the Salvadoran press does not check with all justices of the peace, and accordingly, does not report some of the killings they record.

Nevertheless, the Embassy defends its statistics as valuable in showing trends, pointing out that it has consistently relied on the same methodology.

In our view, however, the Embassy's system is also deficient in showing trends for the following reasons:

* See Americas Watch, "U.S. Reporting on Human Rights in El Salvador: Methodology At Odds with Knowledge," June 1982, pp. 21-2. This contains our account of an Embassy visit to the El Playon lava field where an official saw several fresh bodies being devoured by vultures. The deaths were not reported in the press and, therefore, never recorded in Embassy statistics.

** January 15, 1982 summary cable from the Embassy to the Department of State, "A Statistical Framework for Understanding Violence in El Salvador," and February 14, 1984 interview by Americas Watch with Ambassador Thomas Pickering.

1.) the Embassy and the Department of State regularly point out that Salvadoran press reported figures have declined sharply since 1980, leading them to argue that the human rights situation has improved. What they fail to point out is that in 1980, El Salvador had two newspapers critical of the government. La Cronica del Pueblo was closed after its editor and a photographer were abducted and found dismembered on July 11, 1980. El Independiente was attacked several times and its editor was the target of a number of assassination attempts.* It finally closed after Salvadoran army tanks and trucks surrounded its offices on January 15, 1982. The surviving newspapers are not critical of the government or critical only from the right.

2.) A larger and larger portion of El Salvador is either guerrilla-controlled or is a conflict zone. In such areas, Justices of the Peace may not function and there is little or no attempt by the press to contact those who do function. As the Embassy's 1982 "Framework" cable acknowledged:

The San Salvador dailies only report deaths in areas where they momentarily have correspondents or in areas into which correspondents do not fear to enter. There is extensive reporting from areas such as Santa Ana department which, precisely because it is relatively safe and well policed, permits travel, communication and newspaper coverage...By contrast the battleground departments of Chalatenango and Morazan have been reported at 247 and 47 dead respectively [during the year under review in the cable].* This is certainly an underreporting of events.*

* Archbishop Oscar Arnolfo Romero was murdered while saying a mass for the mother of the editor of El Independiente

** See January 15, 1982 cable, op. cit., 20.

3.) The surviving newspapers in El Salvador are subject to political pressures that vary over time. For example, one newspaper, El Mundo, had been publishing advertisements by families of the disappeared. This practice was suspended for several months during 1983, apparently in response to threats against the newspaper.

4.) The Salvadoran press accepts unquestioningly the assertions by COPREFA (the press office of the Salvadoran armed forces) about civilians killed in action - KIAs.* The Embassy in turn excludes these from its human rights figures.

In the view of the Americas Watch, these flaws in the reporting relied upon by the Embassy are so serious as to make its statistics no more useful in showing trends than in showing the actual number killed in political violence in El Salvador. By contrast to the press reporting relied on by the Embassy, Tutela Legal - the human rights monitoring office of the Roman Catholic Archdiocese of San Salvador - relies on testimony it obtains from victims, the families of victims, and from eyewitnesses. This method of compiling information is also deficient. it is incomplete because if no one comes forward to present testimony or to document abuses, it goes un-

* A recent episode illustrates the control that COPREFA and the Salvadoran armed forces maintain over the surviving newspapers in El Salvador. In February 1984, COPREFA announced that 29 captured soldiers were massacred by the guerrillas at Antiococho. UPI carried this story and it was published in the Salvadoran press. Subsequently, UPI visited the scene and discovered that the soldiers had died in battle, not in a massacre. UPI sent out a second story but the Salvadoran government refused to permit the Salvadoran press to publish it.

recorded. In addition, there is the possibility that some persons who present testimony are themselves mistaken or the possibility that they may intentionally engage in deception. The verification of testimony through investigations by a reliable and impartial system of law enforcement would certainly be desirable. As the U. S. Embassy readily concedes, however, there is no law enforcement mechanism in El Salvador for conducting such investigations of human rights abuses. Indeed, the absence of such a system of law enforcement is itself one of the central human rights problems in El Salvador.

Under the circumstances that prevail in El Salvador, the Americas Watch believes that Tutela Legal's method of compiling human rights information is the best that is possible. Our confidence in Tutela Legal's reporting is based on our respect for the fair-mindedness and integrity of the Archbishop of San Salvador and of the probity and skill of the staff he has employed to monitor human rights developments; our awareness of the confidence that the Archbishop places in the work of Tutela Legal as indicated by his reliance on the information that it compiles in his Sunday homilies at the San Salvador Cathedral; our observation on many occasions of the people lined up at the offices of Tutela Legal to present testimony; our corroboration of Tutela Legal's information through our own interviews with witnesses to abuses and through our conversations with independent journalists who have investigated the same events reported by Tutela Legal; our discussions

with U.S. Embassy personnel about particular episodes reported by Tutela Legal; and our discussions with political leaders, union officials, leaders of peasant cooperatives, refugees and relief workers, and many others in El Salvador, of particular episodes reported by Tutela Legal.

One of the notable features of Tutela Legal's reporting is that the organization excludes from its tabulations episodes in which the circumstances of killings are not clear or in which it was not possible to determine how many people were killed. In connection with our research for this report, we obtained from Tutela Legal a list of military operations during 1983 which fall into these categories. We reproduce that list as an Appendix to this report. Again, none of those who may have died in the course of the military operations enumerated in that list are included in Tutela Legal's tabulations for 1983.

Starting in January 1984, Tutela Legal's reports include descriptions of military operations about which the data that Tutela Legal obtained either was not sufficient for the organization to determine that those who died should be classified as victims of human rights abuses or was not sufficient to determine the number of victims. Those who die in such operations are not included in Tutela Legal's tabulations.

The U. S. Embassy's quarrel with Tutela Legal's reporting of human rights information, and with the conclusions that Americas

Watch and others draw from Tutela Legal's reporting is set forth in a cable that the Embassy sent to the Department of State in late January 1984. As this cable was made available - apparently by the Department of State - to Members of Congress who used it in questioning witnesses at a public hearing*, and as the cable or its contents were made available to some in the press,** we consider it a public document. Accordingly, in the pages that follow, we reproduce the entire cable and comment on each numbered paragraph of the cable in sequence. Our purpose is to promote a better understanding of the nature of human rights abuses in El Salvador and of reporting of those abuses. In addition, it is our hope that, by criticizing what we consider to be at least an implicit effort to justify certain abuses, we hope to prod the Department of State and the U. S. Embassy in San Salvador to bring pressure to bear to end those abuses.

* Hearing of the Western Hemisphere Subcommittee, House of Representatives, February 6, 1984.

** See David Asman, "Behind the Human Rights Tallies," The Wall Street Journal, February 10, 1984.

The Embassy Cable and The Americas Watch CommentsEmbassy Cable p. 1:

SUBJECT: TUTELA LEGAL'S VIOLENCE STATISTICS SHOW
- DECLINE IN DEATH SQUAD DEATHS

1. SUMMARY: WE HAVE DISCUSSED WITH TUTELA LEGAL (TL) THEIR VIOLENCE STATISTICS, THEIR METHODOLOGY FOR COLLECTING INFORMATION, AND THE CATEGORIES THEY USE IN THEIR REPORTS. THE MOST SIGNIFICANT INSIGHT GAINED WAS THAT TUTELA LEGAL'S FIGURES ON CIVILIAN DEATHS THAT OCCUR DURING MILITARY ENGAGEMENTS OR OPERATIONS (MOSTLY OF GUERRILLA "MASAS") NOW ACCOUNT FOR ALMOST 80 PER CENT OF TUTELA LEGAL'S OVERALL REPORTED TOTAL OF CIVILIAN VICTIMS OF POLITICAL VIOLENCE. ACTUAL DEATH SQUAD TYPE POLITICAL MURDERS REPORTED BY TUTELA LEGAL HAVE DECLINED SHARPLY. INDEED, WHEN STRIPPED OF THE CIVILIAN BATTLEFIELD RELATED DEATHS COMPONENT, TL'S POLITICAL VIOLENCE FIGURES FOR THE PAST SIX MONTHS ARE REMARKABLY SIMILAR TO THE EMBASSY'S POLITICAL VIOLENCE FIGURES FOR THE SAME PERIOD. END SUMMARY.

Americas Watch Comment P. 1:

It seems astonishing that the U. S. Embassy in San Salvador should consider it to be a "significant insight" that the majority of civilian deaths reported by Tutela Legal occur during military engagements or operations. Since its establishment by Archbishop Rivera y Damas in May 1982, Tutela Legal has published highly detailed monthly reports on political violence in El Salvador. Each report includes a statistical summary at the beginning. From the beginning, most of the victims tabulated by Tutela Legal have been killed by the Salvadoran Army in connection with engagements and operations and this has been meticulously reported in the descriptions Tutela publishes of individual killings and in its statistical summaries. The same is true of the killings that were tabulated

prior to May 1982 by Socorro Juridico, the organization that was then affiliated with the Archdiocese. In 1980 and 1981, when death squad killings were at their highest levels, there were more killings of civilian noncombatants by the army.

In the course of a February 14, 1984 interview with the Embassy official who prepared the cable for Ambassador Pickering's signature, the Americas Watch learned that, until recently, he was unaware that Tutela Legal distinguishes between death squad killings and army killings in its published reports. He learned of this practice when he served as a translator for a member of Congress who visited San Salvador in January 1984 and who took the occasion to discuss human rights abuses with the staff of the Archdiocese. At that, even after drafting the cable, the Embassy official expressed surprise when Americas Watch representatives pointed out to him that Tutela Legal had made such distinctions in its published reports since its founding.* It seems possible that the author of the cable was a victim of Reagan Administration rhetoric which has consistently attributed human rights violations to "right-wing death-squads" in an effort to exculpate the regular armed forces. Apparently, he thought that the larger number of human rights violations recorded by the Archdiocese were also all attributed to death squads.

* Not everyone at the U. S. Embassy in San Salvador was comparably ignorant. Other officials of the Embassy have followed the works of Tutela Legal.

This paragraph also contains the parenthetical assertion that the civilian deaths occurring in connection with military engagements or operations are "mostly of guerrilla masas." This assertion is wholly unsupported. Tutela Legal does not use this term. It is used by the guerrillas, though to some extent their use of it is propagandistic as it is intended to imply that the "masses" support their struggle.

In any event, it is not a useful term in determining whether killings by the Salvadoran armed forces may be properly described as human rights violations. Indeed, the use of the term is pernicious. It has the effect of stigmatizing civilians who happen to live in conflict zones or guerrilla-controlled zones, appearing to legitimize attacks upon them. The Salvadoran armed forces should attempt to avoid injuries to persons taking no active part in hostilities. In any war, of course, some injuries to those taking no active part in hostilities are the inevitable consequence of attacks on legitimate military targets. Killings of guerrillas in combat, or killings of civilians in crossfire, or killings of civilians in the course of attacks on appropriate military targets are not properly classified as human rights violations. Tutela Legal does not include such killings in its tabulations and also excludes doubtful cases. By using the term

"guerrilla 'masas'," however, the Embassy implies that it is the views of those who are killed that matter: that is, that they are non-combatant masses who support the guerrillas. Tutela Legal, on the other hand, takes the position that the views of the victims are immaterial. Many people in El Salvador support the guerrillas, the organization points out. Even so, their views do not make them legitimate targets for attack. Moreover, Tutela Legal has no knowledge, as the Embassy has no knowledge, of how many of the victims actually did support the guerrillas.

The paragraph goes on to refer to "battlefield related deaths" as if the term were synonymous with "military engagements or operations." It is not.

Tutela Legal points out that many of those killed in connection with military engagements are killed at the conclusion of battle. Some are fleeing civilians who are attacked. Others are pulled from their homes and killed because it is thought that they aided the guerrillas by furnishing food to them or by not disclosing their whereabouts. Others are prisoners who are killed.* Still others are the wounded who are finished off. Most such

* Though it has been a matter of frequent discussion, it appears that the Salvadoran armed forces continue not to take any prisoners. In response to a question submitted to the Department of State at the request of the Americas Watch by Senators Percy and Pell, the Department stated on August 26, 1983 that, "the Government of El Salvador has informed the Embassy that there is no centrally directed program for handling captured prisoners and therefore they have been unable to provide the Embassy with any statistics on guerrillas captured."

killings are not properly described as "battlefield related deaths."

As to military operations, these include such operations as:

- * the November 1981 bombardment and strafing of approximately 1,000 refugees trying to cross the Lempa river into Honduras.¹

- * The killings of 700 to 1,000 villagers at some nine hamlets in the vicinity of El Mozote in December 1981.²

- * the killings of some 300 campesinos in the Tecoluca jurisdiction of San Vicente in January 1982.³

- * the killings at San Antonio Abad in January 1982.⁴

- * the bombardment of some 5,000 fleeing peasants from the San Esteban Catarina jurisdiction of San Vicente in March 1982.⁵

1 See Americas Watch, July 20, 1982 Supplement to the Report on Human Rights in El Salvador, pp. 25-26

2. Ibid. pp. 27-31

3. Ibid., pp. 31-2

4. Ibid. pp. 32-3; 71-3

5. Ibid. pp. 78-9

- * the Chalatenango "clean-up" operation in May 1982.1
- * the massacre in the vicinity of Santa Clara, San Vicente in August 1982.2
- * the massacre at "La Florida" agrarian cooperative in November 1982.3
- * the massacre at Las Hojas, Sonsonate in February 1983.4
- * the bombardment of civilians fleeing Tenancingo in September 1983.5

Though none of these episodes in which a great many civilian non-combatants were killed involved death squad activities, neither did they involve battlefield deaths. They involved military operations by the regular armed forces. In the view of Tutela Legal - and in the view of the Americas Watch - the killings at these places are properly regarded as human rights violations.

1. Ibid. p 106-7

2. Americas Watch, January 20, 1983 Second Supplement to the Report on Human Rights in El Salvador, p. 20.

3. Ibid. p. 22

4. Americas Watch, July 19, 1983 Third Supplement to the Report on Human Rights in El Salvador, pp. 17-23.

5. Americas Watch, As Bad As Ever: Fourth Supplement to the Report on Human Rights in El Salvador, pp. 18-20.

Embassy Cable para. 2.:

2. SOURCES: TUTELA LEGAL RELIES UPON SEVERAL SOURCES FOR THEIR MONTHLY VIOLENCE STATISTICS. ACCORDING TO TUTELA LEGAL, THE PRIMARY SOURCE IS THE TESTIMONIES OF THE VICTIMS THEMSELVES, THE VICTIMS' FAMILIES, AND/OR OTHER EYEWITNESSES. THESE TESTIMONIES ACCOUNT FOR OVER 50 PER CENT OF TUTELA LEGAL'S CASES. (OTHER SOURCES INCLUDE REPORTS FROM THE JUSTICES OF THE PEACE, WHICH ACCOUNT FOR 20 PER CENT; COPREFA BULLETINS; INFORMATION PROVIDED BY CHURCH SOURCES OUTSIDE OF SAN SALVADOR; AND SOME (NOT ALL) NEWSPAPER ACCOUNTS, WHICH PROVIDED 10 PER CENT.) TUTELA LEGAL INSISTS THAT THEIR STANDARDS FOR ACCEPTANCE OF PERSONAL TESTIMONIES ARE HIGH; THAT IS, THE SOURCE MUST BE AN EYEWITNESSES TO THE ACT AND MUST BE WILLING TO GIVE A SIGNED STATEMENT. THEY SAY THAT ANONYMOUS CLAIMS ARE NOT ACCEPTED, AND THAT WHEN MULTIPLE ACCOUNTS ARE GIVEN FOR THE SAME INCIDENT, THE LOWEST FIGURE IS USED.

Americas Watch Comments on Para 2:

This paragraph is correct in saying that Tutela Legal relies primarily on the testimonies of victims, the families of victims and/or other eyewitnesses. On the other hand, the characterization of other sources is somewhat misleading.

a.) with respect to justices of the peace, Tutela Legal relies on their information, as it relies on information from other parts of the judiciary, when they document cases.

In some instances, this documentation is used as a method of checking testimony.

b.) with respect to COPREFA (the armed forces press agency) bulletins, these are not used by Tutela Legal in compiling information on human rights violations. COPREFA bulletins are used by Tutela only in compiling a separate list of soldiers killed.

c.) with respect to church sources outside of San Salvador, Tutela Legal has trained a few church officials in remote areas of the country to take testimony.

d.) with respect to newspaper accounts, these are not used by Tutela Legal. However, the organization does take testimony as to numbers of bodies, etc. from some Salvadoran journalists who have gone to the scenes of killings. According to Tutela Legal, sometimes these journalists are unable to publish this information in their own newspapers. As in the case of information developed by the judiciary, Tutela Legal sometimes uses the testimony of journalists to check other testimony it has obtained. The rest of this paragraph is accurate.

Embassy Cable Para. 3:

3. TUTELA LEGAL DECLINES TO REVEAL TO THE EMBASSY (AND PRESUMABLY TO ANYONE ELSE) THE IDENTITIES OF THE EYEWITNESSES WHO PROVIDE OVER HALF OF THEIR INFORMATION, STATING THAT TO DISCLOSE THEIR SOURCES WOULD PUT THE EYEWITNESSES IN DANGER. IT IS, THUS, IMPOSSIBLE FOR US TO DETERMINE, FOR EXAMPLE, THE NUMBER OF INCIDENTS EACH EYEWITNESS HAS REPORTED OVER TIME, THE TYPE OF INCIDENT, THEIR LOCATION, THE AVERAGE NUMBER OF DEATHS REPORTED IN EACH EYEWITNESS ACCOUNT, AND TO WHAT DEGREE, IF ANY, EYEWITNESS SOURCE MAY REPORT GUERRILLA BATTLEFIELD CASUALTIES AS CIVILIAN DEATHS.

Americas Watch Comment on Para 3:

It is true that Tutela Legal refuses to reveal the identities of many eyewitnesses. Some names are revealed, however. The determination as to whether the names will be revealed is made by the witnesses themselves. Some decline to have their names revealed out of fear; others permit publication of their names; and a few insist on publication of their names. A glance through the testimonies published in Tutela Legal's monthly reports shows that some names are disclosed.

The danger witnesses face in permitting their names to be published is illustrated by what happened after two persons from a conflict area made their way to San Salvador in 1983 to present testimony about several killings in their village. Because it would have been dangerous for them to return to the village, Tutela Legal sent them to one of the camps for displaced persons operated by the Archdiocese. Shortly after their testimony was published, a group of soldiers visited the camp and demanded the names and places of origin of all the residents. As it happened, a group of five nuns was at the camp at the time and they resisted the demand. The soldiers backed down.*

* Interview, Tutela Legal, February 14, 1984.

The rest of this paragraph implies that some witnesses are coming to Tutela Legal repeatedly to give information on multiple killings. Tutela Legal denies that this happens. We know of no basis that the Embassy has for implying this.

Embassy Cable Para 4

4. CIVILIAN VICTIMS OF POLITICAL VIOLENCE: TUTELA LEGAL READILY ACKNOWLEDGES THAT THIS CATEGORY INCLUDES THE LARGE NUMBERS OF PEOPLE KNOWN AS "MASAS" (CIVILIANS WHO TRAVEL OR LIVE WITH THE GUERRILLAS, AND PROVIDE THEM LOGISTICAL OR OTHER SUPPORT). TUTELA LEGAL ALLEGES THAT THE SALVADORAN ARMY FREQUENTLY SINGLE OUT "MASAS" FOR ATTACK. (COMMENT: ALTHOUGH TUTELA LEGAL REGARDS "MASAS" AS UNARMED CIVILIANS, SOME OF WHOM EVEN MAY BE HELPING THE GUERRILLAS INVOLUNTARILY, "MASAS" DO LIVE IN CLOSE PROXIMITY OF AND TRAVEL IN THE COMPANY OF ARMED GUERRILLAS. THIS INTERMINGLING WITH, AND SUPPORT OF THE ARMED INSURGENTS MAKES THEM SOMETHING MORE THAN INNOCENT CIVILIAN BYSTANDERS WHEN THEY AND THEIR ARMED COMPANIONS COME UNDER FIRE DURING MILITARY ENGAGEMENTS. END COMMENT.) TUTELA LEGAL DOES NOT PUBLISH FIGURES ON GUERRILLA DEATHS, CLAIMING NOT TO HAVE ACCESS TO THIS INFORMATION. IN ADDITION, TUTELA LEGAL CLAIMS TO EXCLUDE FROM ITS COUNT INCIDENTS IN WHICH IT IS IMPOSSIBLE TO DIFFERENTIATE BETWEEN GUERRILLA AND CIVILIAN ("MASA") DEATHS. (COMMENT: THIS ASSERTION ITSELF IS A TACIT RECOGNITION BY TUTELA LEGAL OF THE CLOSE INTERRELATIONSHIP AND INTERMINGLING OF ARMED GUERRILLAS AND THEIR UNARMED "MASA" SUPPORTERS.)

Americas Watch Comment on Para 4

This paragraph is incorrect in attributing to Tutela Legal the view that many of those included in its tabulations are "masas" because, as indicated above, Tutela does not use this term. It is also incorrect in defining "masas" as those who travel with the guerrillas and provide them with logistical support. To the extent that such persons are closely associated with the guerrillas, and may be killed in the course of attacks on the guerrillas,

it is Tutela Legal's policy not to include their deaths in its tabulations of human rights violations.

The parenthetical "comment" is very unfortunate because it lumps together those persons who "live in close proximity" to the guerrillas, some of them involuntarily, and those who "travel in the company of armed guerrillas." Unfortunately, this reflects the practices of the Salvadoran armed forces who frequently fail to make distinctions. As the section of this report on the law (see below) makes clear, it is of the greatest importance to try to protect those who merely "live in close proximity" to the guerrillas. Contrary to the cable, living in close proximity with the guerrillas, even if they support the guerrillas, does not "make them something more than innocent bystanders." In effect, the "comment" in the cable appears to justify free fire practices in guerrilla-controlled zones. We are certain that the Embassy did not intend this interpretation, but it should exercise greater care not even to appear to condone such practices. Again, it is because the Salvadoran armed forces engage in such practices that there are so many human rights violations that result from military operations.

The cable is accurate in asserting that Tutela Legal does not publish information on guerrilla deaths.* It is also

* At a February 6 hearing of the House of Representatives Western Hemisphere Subcommittee, two members of the Committee, who had evidently been furnished copies of the cable, misinterpreted this passage. They understood it to mean that Tutela Legal does not publish information on guerrilla killings. Tutela Legal does publish information on guerrilla killings, but not on guerrillas killed.

accurate in asserting that Tutela says it does not publicize information on cases in which it is impossible to differentiate between civilian and guerrilla deaths. The "comment," however, implies too much. Some civilians do furnish logistical support for the guerrillas and are so closely linked to them that they are inevitably killed in combat. By using the term "masa supporters," however, the cable again makes it appear that the question of support should be determinative. Again, support is, or should be, irrelevant. It is the circumstances of the killings that are relevant in the view of Tutela Legal and in the view of the Americas Watch.

Embassy Cable Paras. 5 & 6.

5. STATISTICS: WHEN ONE LOOKS AT TUTELA LEGAL'S OWN ANALYSIS OF THEIR TOTAL FOR "CIVILIAN DEATHS" ACCORDING TO "PERPETRATOR" AND "CIRCUMSTANCES OF DEATH," IT BECOMES CLEAR THAT THE VAST MAJORITY OF THE CIVILIAN DEATHS TUTELA LEGAL DOCUMENTS OCCUR DURING MILITARY ENGAGEMENTS OR OPERATIONS. THE ACTUAL NUMBER OF DEATHS ATTRIBUTED TO DEATH SQUADS IS A MUCH SMALLER FIGURE, AND QUITE COMPARABLE TO EMBASSY'S STATISTICS BASED ON PRESS REPORTS. THE FOLLOWING PARAGRAPH CONTAINS TUTELA LEGAL'S STATISTICS FOR "CIVILIAN DEATHS" ANALYZED BY "PERPETRATOR" AND BY "CIRCUMSTANCE" FOR THE LAST SIX MONTHS OF 1983.

CIVILIAN DEATHS BY PERPETRATOR

PERPETRATOR	JULY	AUG.	SEP.	OCT.	NOV.	DEC.	TOTAL
UNIDENTIFIED DEATH SQUADS	92	116	68	88	56	25	445
SECRET ANTI- COMMUNIST ARMY (I.S.A.)	2		2				4
ARMY	281	200	333	353	455	469	2091
COMBINED SECURITY FORCES	48				1	7	56
AIR FORCE					4		4
CIVIL DEFENSE	1	2			9	3	15
GUERRILLAS	8	5	6	5			24
TOTAL	432	323	409	446	525	504	2639

CIVILIAN DEATHS BY CIRCUMSTANCE

CIRCUMSTANCE	JULY	AUG.	SEP.	OCT.	NOV.	DEC.	TOTAL
MILITARY INCOUNTER	196	198	333	250	354	477	1808
ARMED FORCES SWEEP (INCL. CAMPINGS)	140			102	100		342
ARRESTED AND TAKEN FROM HOME	8	5	4	2	3	3	25
AT HOME			6		1		7
UNKNOWN	86	120	65	92	67	24	456
TAKEN OUT OF A HUS			1				1
TOTAL	432	323	409	446	525	504	2639

6. COMPARING FIGURES IN THESE TWO TABLES, WE NOTE THE FOLLOWING SIGNIFICANT CORRESPONDENCE OF NUMBERS:

"PERPETRATOR"	"CIRCUMSTANCE OF DEATH"	
UNIDENTIFIED DEATH SQUADS	UNKNOWN	456
	ARRESTED	25

ON POLITICAL VIOLENCE!!

JULY	142	87
AUGUST	116	76
SEPTEMBER	70	112
OCTOBER	88	102
NOVEMBER	57	88
DECEMBER	32	98
TOTAL	505	563

TO ARRIVE AT THE TUTELA LEGAL TOTAL FIGURE (505) FOR DEATH SQUAD TYPE MURDERS, WE HAVE COMBINED THE FOLLOWING THREE TO CATEGORIES OF DEATHS:

- (A) BY UNIDENTIFIED DEATH SQUADS -- 445
 - (B) BY E.S.A. -- 4
 - (C) BY COMBINED SECURITY FORCES -- 56

TO ARRIVE AT THE EMBASSY CIVILIAN DEATHS FIGURE NOTED HERE (563) WE HAVE DEDUCTED FROM OUR OVERALL FIGURES ON POLITICAL VIOLENCE THE RELATIVELY SMALL NUMBER OF CIVILIANS REPORTED AS KILLED IN ACTION (KIA). WE BELIEVE THIS METHODOLOGY PROVIDES A MORE REALISTIC COMPARISON BETWEEN TL'S AND EMBASSY FIGURES ON POLITICAL VIOLENCE.

Americas Watch Comment on Paras. 5 & 6:

It is accurate to say that most of those whose killings are tabulated by Tutela Legal are killed by the army - as has been true all along - not by death squads. Again, what is interesting is that the Embassy official who prepared the cable should have just now discovered this and what is unfortunate is any implication that only death squad killings are human rights violations. The assertion that Tutela Legal's figures on death squad killings is "quite comparable to the Embassy's statistics based on press reports" is specious. Though the six month totals are comparable, the month-to-month comparisons are not and they follow no discernible pattern.

Embassy Cable Para 7:

7. TUTELA LEGAL ITSELF HAS NEVER CLAIMED, TO OUR KNOWLEDGE, THAT THE DEATH SQUADS WERE RESPONSIBLE FOR THE 35,000 OR SO CIVILIAN DEATHS THEY SAY HAVE OCCURRED SINCE 1979 AND THEY HAVE BEEN OPEN IN FULFILLING THEIR ANALYSES BY CIRCUMSTANCE OF DEATH, ETC. HOWEVER, THE IMPORTANT DISTINCTION BETWEEN CIVILIAN DEATHS, CAUSED BY DEATH SQUADS, AND CIVILIAN (MOSTLY "MASA") CASUALTIES RESULTING FROM MILITARY OPERATIONS AND ENGAGEMENTS IS LOST IN THE REPORTING IN THE U.S. ON VIOLENCE STATISTICS. ALSO IGNORED IS THE FACT, BORN OUT BY TL'S OWN FIGURES, THAT CIVILIAN DEATHS ATTRIBUTED TO THE DEATH SQUADS HAVE SIGNIFICANTLY DECLINED. PICKERING

Americas Watch Comment on Para 7:

It is correct that Tutela Legal has never claimed that death squads were responsible for 35,000 civilian deaths. It is incorrect to characterize the civilian deaths as "mostly masas." Insofar as the Americas Watch has been the principal group disseminating Tutela Legal's information in the U. S., it is incorrect to assert that the distinction between deaths resulting from death squads and deaths in connection with military operations has been lost in the U. S. Every Americas Watch report on El Salvador (there have been six prior to this one) has made the distinction and has provided details on killings in connection with military operations that we regard as human rights violations. As to the decline in death squad killings, that only began to be significant the last two months of 1983. While the statistics were duly

reported in Americas Watch's most recent report,* after more than four years of such killings, we did not make much of the decline because it was of too short duration. If death squad killings continue to decline - as happened in January - this fact will be of concomitantly greater significance and we will give it commensurate attention.

It is true, of course, that the press sometimes lumps all political violence in El Salvador under the death squad heading. The primary blame, however, must rest with the Department of State which constantly refers to "right-wing death squads" to the exclusion of killings by the armed forces. In effect, some in the press conflate State Department rhetoric and Tutela Legal's statistics as disseminated by the Americas Watch.

* As Bad As Ever, op. cit., p. 13.

The Cable and International Humanitarian Laws

"The conduct of warfare is not wholly unregulated by law. Nations have agreed to treaties limiting warfare; and customary practices governing warfare have, over a period of time, become recognized by law as binding on the conduct of warfare. Some of these deal with the propriety of killing during war. The killing of resisting or fleeing enemy forces is generally recognized as a justifiable act of war, and you may consider any such killing justifiable in this case. The law attempts to protect those persons not actually engaging in warfare, however; and limits the circumstances under which their lives may be taken."

Instructions from the Military Judge
to the Court Members in United States
v. First Lieutenant William L. Calley,
Jr., Fort Benning Georgia, March, 1971

The legal distinction between a "civilian" and a "combatant" in the kind of armed conflict ongoing in El Salvador is crucial to resolving the U.S. Embassy's and Tutela Legal's divergent views.

In this regard, the crucial legal standards are found in some of the following International Humanitarian Law Conventions* to which El Salvador is a State Party; the four Geneva Conventions of 1949** and the two Protocols *** additional to these Conventions. It is important to note, however, that the degree to which individual civilians

the civilian population and civilian objects are expressly protected from attack depends on the nature of the particular armed conflict and humanitarian law rules applicable to that conflict. For example, the legal regime for the protection of victims of an international, i.e., inter-state, armed conflict varies significantly from that accorded to victims of a non-international, i.e., intra-state armed conflict. Consequently, an objective characterization of the armed conflict in El Salvador is needed for a proper identification of the applicable humanitarian law rules.

* formerly known as the Law of Armed Conflict.

** Geneva Convention for the Amelioration of the Condition of Wounded and Sick in Armed Forces in the Field, 75 U.N.T.S. 31 (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 75 U.N.T.S. 85 (Second Convention); Geneva Convention Relative to the Treatment of Prisoners of War, 75 U.N.T.S. 287.

*** Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), reprinted in 16 INT'L LEGAL MATERIALS 1391 (1977)

El Salvador: A Non-International Armed Conflict

The proper characterization of the hostilities in El Salvador since late 1980 is that of a non-international armed conflict. As such, the situation there is clearly governed by the legal rules set forth in Article 3 common to the four Geneva Conventions (Article 3)) and by those in Protocol II (Relating to the Protection of Victims of Non-International Armed Conflicts). Article 3 reads as follows:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party shall be bound to apply, as a minimum, the following provisions:

(I) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons;

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;

- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the parties to the conflict.

The parties to the conflict should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 3's Protection and Limitations

In the view of the International Committee of the Red Cross ("ICRC"), the provisions of Article 3 possess now the character of jus cogens, i.e., a peremptory norm of international law, and thus are binding on all authorities claiming to exist in international law.* Article 3's obligatory provisions are non-derogable and expressly bind all parties to the conflict, i.e., the government and insurgents. Further, the obligation to apply Article 3 is absolute for both parties and independent of the obligations of the other party.

* See speech of Jacques Moreillon, Director for General Affairs and Directorate Member, ICRC, entitled "International Humanitarian Law and Terrorism" at the Inter-American Seminar on State Security, Human Rights and Humanitarian Law, San Jose, Costa Rica, Sept. 1982.

Although Article 3 is automatically applicable as soon as a situation of internal armed conflict objectively exists, the ICRC is not legally empowered to force the parties to that conflict to declare its applicability. Thus, despite the fact that the Salvadoran government agreed in September 1980 to permit the ICRC to establish a permanent delegation there (which now comprises 30 Swiss delegates), the Salvadoran government still refuses to recognize publicly Article 3 as applicable to the ongoing conflict. However, the fact that the Salvadoran government permits the ICRC to engage in relief operations to the civilian population in zones which it does not control, as well as its continued requests for military assistance from the U.S. government, constitute its acknowledgment that another party to the conflict exists.

Although Article 3 does not by its terms prohibit attacks against the civilian population in non-international armed conflicts, such attacks are prohibited in such conflicts by customary international law. Certain general principles of the customary law of armed conflicts were recognized in UN General Assembly Resolution 2444 (XIII), 12 Jan. 1969, which was adopted by unanimous vote. This resolution affirms "...the following principles for observance by all governments and other authorities responsible for action in armed conflicts:

- (a) That the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited;

(b) That it is prohibited to launch attack against the civilian populations as such;

(c) That distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible;"

The Resolution's preambulatory language clearly indicates that these basic humanitarian principles apply "in all armed conflicts," i.e., both international and non-international conflicts. (Emphasis added). Further, the U. S. Government has expressly recognized these general principles "as declaratory of existing customary international law."* Thus, while not expressly prohibited by Article 3, a ground attack by Salvadoran forces directed against unarmed civilians living in proximity to the guerrillas who may support the guerrillas, undertaken with the knowledge that no military objective was present, or with reckless disregard for the presence of a military objective, would constitute a violation of the customary international law of armed conflict. Under this circumstance, their deaths should be regarded as civilian murders and not as unavoidable collateral civilian casualties.

* See letter of September 22, 1968 from the General Counsel, US DOD to Senator Edward Kennedy regarding War-related Problems in Indo-China in ROVINE, Contemporary Practice of the United States Relating to International Law, 67 AJIL 118, 122-25 (1973). The principle of civilian immunity from direct attack is expressly stated in US Army Field Manual 27-10, para. 25 and in US Air Force Pamphlet 110-131, para. 5-3. See also UNGA Res. 2675 (XXV), 1970.

Protocol II

Apart from customary international law, the law relevant to the protection of the civilian population against enemy attack in non-international armed conflicts is Protocol II.

Article I para. 1 of Protocol II limits that instrument's application to non-international armed conflicts "...which takes place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol."

Although the basic goal of Protocol II develops and supplements Article 3 without modifying its existing conditions of application, the Protocol's threshold of application is both different from and clearly above that of Article 3. Protocol II introduces objective qualifications unknown to Article 3, such as the requirements that a State Party's armed forces must participate in the conflict and that dissident armed forces or other organized armed groups must exercise control over a part of its territory.

Moreover, as the authors of the Commentary on the two Protocols have observed, "the qualifications of the armed conflict contained in the last part of the sentence [Art. 1 para. 1] beginning with which, under responsible command, are principally designed to limit the application of Protocol

II to serious cases of rebellions of 'other organized armed groups.'" Thus, the objective conditions which must be satisfied to trigger Protocol II's application contemplate a situation of civil war essentially comparable to a state of belligerency under customary international law.

Neither the Salvadoran government, nor the FMLN, to date have recognized Protocol II's application to the hostilities. However, non-recognition of its applicability by these adverse parties is not dispositive. The requirement of such express recognition by the adverse parties was rejected by the Protocol's drafters on the ground that this additional requirement would have introduced "subjective elements into a system which should, in the interests of the victims, be based on objective criteria."** Accordingly, the authors of the Commentary argue as follows:

"There is no room for discretion on the part of the HCP [High Contracting Party] in whose territory a conflict covered by the provisions of Art. 1 occurs, to decide whether this conflict fulfills the requirements and from which date. Independent of any position taken by the government in power, the adverse party and the members of its forces and the civilian population and all persons affected by the armed conflict are entitled to the protection provided for in the Protocol."***

It seems apparent that the armed conflict in El Salvador today meets Protocol II's threshold. The FMLN apparently

* M. Bothe, K. Partsch & W. Solf, New Rules for Victims of Armed Conflict -- Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949 at 627 (1982) ("Commentary").

** Commentary Supra at 628

*** Id.

controls the northern Morazan, northeast Chalatenango, eastern Usulután, northern and western San Vicente and northern San Miguel departments, constituting substantial parts of five of the country's fourteen departments. The insurgents' control over these areas has enabled them to engage in sustained military operations which they have undertaken in a systematic, coordinated way. It should be noted that full-fledged field battles are not necessary to make Protocol II applicable. Moreover, the fact that rebels are taking prisoners and arranging for their release by the ICRC, as well as permitting relief operations, also suggests that they are capable of applying the Protocol.

Even assuming, however, that Protocol II is not yet applicable, universally recognized rules of international treaty law,* require that to serve the humanitarian goals of Protocol II, i.e., the protection of victims of non-international armed conflicts, both the government and insurgent forces are legally bound to refrain from all acts which would defeat the objects and purposes of the Protocol.

Protection of the Civilian Population

The key provision in Protocol II which is designed to generally immunize the civilian population against attacks

* See Article 18 of the Vienna Convention on the Law of Treaties, U.N. Doc. A/CONF. 39/27, (1969). Since 1973, the U.S. State Department has stated that it considers this convention as an authoritative codification of customary international law. See Rovine, Digest of U.S. Practice in International Law, 1973 at 307, 482-3 (1974).

or their effects and provides the basis for differentiating civilians from combatants is Article 13. The text of that Article states:

1. The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities.

Those non-combatants who live in close proximity to the guerrillas and who support the guerrillas are civilians under Protocol II.

Unlike Article 50* of Protocol I which expressly defines the terms "civilians" and "civilian population," Article 13 merely refers to "individual civilians" and "civilian population." Moreover, Protocol II has no provision comparable to Article 43 of Protocol I defining armed forces and combatants. The absence of such provisions and definitions, however, does not mean that Protocol II's drafters intended not to differentiate between those persons

* Article 50 of Protocol I defines civilians negatively as anyone who is not a member of the armed forces or of an organized armed group (as defined in Article 43) and defines the civilian population as comprising all persons who are civilians.

who are and are not entitled to the protections accorded by Articles 13 and 18 of Protocol II.* In this connection, Article I of Protocol II contains the basic elements of the concept of armed forces in its allusion to the "armed forces of the High Contracting Party" and to "dissident armed forces or other organized armed groups...under responsible command." The Commentary's authors state that, "inferentially these terms recognize the essential conditions prescribed under Article 43 of Protocol I: that the armed force be linked to one of the parties to the conflict; that they be organized, and that they be under responsible command."** They conclude significantly that "it thus follows that civilians are all persons who are not members of organizations meeting these qualifications."***

Specifically, the classification of civilian under Protocol II includes, apart from the peaceful population not directly involved in the hostilities, the following:

1. Persons who are linked to or support the armed forces or dissident armed groups by inter alia supplying labor, food, transporting supplies, serving as messengers or disseminating propaganda. These persons may not be subject to direct individualized attack, but are clearly

* See Commentary supra at 669.

** Id. at 672.

***Id.

subject to prosecution under domestic laws for giving aid and comfort to rebels. Further, like their counterparts in an international armed conflict, these civilians implicitly assume the risk of incidental death or injury arising from attacks against legitimate military targets.*

2. Persons (not members of armed forces) who actually are taking direct part in hostilities. These civilians, however, lose their immunity from attack under provisions of paragraph 2 of Article 13.

By the U.S. Embassy's own description, Salvadoran civilian supporters of the guerrillas must be considered civilians for purposes of Protocol II and thus may not be targeted for individualized direct attack by government forces unless and only for such time as they in fact assume the role of a "combatant" by directly participating in hostilities. Though Article 13 accords such noncombatants general protection against attack, it does not expressly provide them protection against indiscriminate or disproportionate attacks, nor does it explicitly ban "the use of civilians to shield military operations."** In addition, Article 13 does not directly by its terms prohibit direct

* See Commentary supra at 672.

** Id. at 676.

disproportionate collateral damage to civilian objects. *

However,, as the authors of the Commentary argue, the concept of general protection in Article 13 "is broad enough to cover protections which flow as necessary inferences from other provisions of Protocol II." Thus, while there is no explicit provision affording general protection for civilian objects other than the special objects covered by Arts. 14 to 16, the protection against direct attack of para. 2, also "precludes attacks against civilian objects used as dwellings or otherwise occupied by civilians not then supporting the military effort."** (Emphasis supplied). In addition, although Article 13 does not expressly prohibit indiscriminate or disproportionate attacks against civilians and civilian objects (except for those covered by Article 14 to 16), "attacks against densely populated places which are not directed against military objectives, those which cannot be so directed, and the area bombardments prohibited by para. 5(a) [of Protocol I] are inferentially included within the

* For example, Article 14 of Protocol II proscribes starvation of civilians as a method of combat and prohibits an attack, destruction or rendering useless for that purpose "objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supply and irrigation works."

** Commentary supra at 677. Objects so prohibited against attack include houses, schools, and other structures occupied by civilians unless they have become military objectives. Id. at 671.

prohibition against making the civilian population the object of attack."* In addition, such disproportionate or indiscriminate attacks against the civilian population in a non-international armed conflict are also inferentially prohibited by the "principle of humanity" which is expressly stated in clause four of the Preamble of Protocol II.

Accordingly, while not an exhaustive list, the following kinds of attacks by the Salvadoran military against civilian supporters of the guerrillas living in close proximity to the guerrillas, so long as they do not or no longer are directly participating i.e., assuming a combatant's role, in the hostilities, are prohibited by Protocol II:

1. direct ground attacks against individual or groups of unarmed noncombatants where no legitimate military objective, such as insurgent forces or war material, are present;
2. search and destroy or mop-up ground operations carried out by Salvadoran troops under the circumstances

* Id. Article 5 1 5(a) and (b) of Protocol I states: Among others, the following types of attacks are to be considered as indiscriminate:

(a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separate and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and

(b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

described above;

3. indiscriminate attacks and bombardment of encampments of such noncombatants, known to be such by Salvadoran forces where no legitimate military objective is present;

4. ground attacks against or bombardment of such unarmed noncombatants, either immediately prior to, during, or immediately after the receipt from relief societies of supplies essential for their survival, i.e., food and medicines.

All such deaths are equivalent to murder and may be properly classified as such by Tutela Legal. In addition, once such noncombatants are detained, captured or otherwise fall within the power of Salvadoran troops or agents, they are absolutely and without exception entitled to the non-derogable fundamental guarantees provided in Articles 4 to 6 of Protocol II. If, under these circumstances, they are summarily executed or die as a result of torture, Tutela Legal may similarly properly classify their deaths as civilian murders.

On the other hand, deaths resulting from actions by government forces under the following circumstances should be classified as combat related casualties and, as such, should be excluded, and are excluded from Tutela Legal's tallies:

1. civilian noncombatants who are killed while directly participating in the hostilities;

2. civilian noncombatants who, because of their intermingling with insurgent forces or presence at other legitimate military objectives, are killed during government forces' direct attacks on such objectives. Such deaths are unavoidable collateral civilian casualties since the civilian noncombatants have assumed the risk of death arising from government attacks against proper military targets.

Obviously, the appropriate labeling of the deaths of civilian noncombatants falling within the grey area between these two extremes is a serious problem since their proper classification depends on the circumstances of death. In light of the difficulties involved, Tutela Legal's reliance on direct signed testimonies from victims, family members and eyewitnesses about such deaths is a reasonable method of attribution and classification. Its exclusion from its tallies of those deaths falling within the grey area reflect a scrupulous attempt to record as human rights violations only those killings that are regarded as murders by international humanitarian law.



OFICINA DE TUTELA LEGAL DEL ARZOBISPADO
COMISION ARQUIDIOCESANA DE JUSTICIA Y PAZ

Apdo. 2253 — San Salvador, El Salvador, C.A.

I

ACCIONES MILITARES OCURRIDAS DURANTE EL AÑO DE 1983, EN LAS CUALES HUBO VICTIMAS DE LA POBLACION CIVIL Y NO SE PUDIERON OBTENER DATOS SOBRE EL NUMERO DE MUERTES.-

SEMANA DEL:	ACCIONES MILITARES
1 enero al 6 enero.	- No obtuvimos información.
7 enero al 13 enero.	- No obtuvimos información.
14 enero al 20 enero.	- No obtuvimos información.
21 enero al 27 enero.	- No obtuvimos información.
28 enero al 3 febrero.	- No obtuvimos información.
4 feb. al 10 febrero.	- No obtuvimos información.
11 feb. al 17 febrero.	- No obtuvimos información.
18 feb. al 24 febrero.	- "Sobre otras acciones ocurridas en Suchitoto, Zacatecoluca, Moncagua, Chapeltique y Tajutla, no obtuvimos un número exacto de víctimas".
25 feb. al 3 marzo.	- "Sobre las acciones ocurridas en cerro Las Aldeitas de El Paraíso, Km. 20 y 21 de la Carretera Troncal del Norte, carretera que de Jiquilisco conduce al Puesto El Triunfo, área de El Salitre y Los Lirios (Operación Guazapa 10), no obtuvimos un número exacto de víctimas".
4 marzo al 10 marzo.	- "Sobre las acciones ocurridas en Morazán, Jiquilisco, Cantón San Jacinto de Coatepeque, cerro Cacahuatique de San Miguel, puentes del río Acelhuate en la carretera Troncal del Norte y Km. 83 de la carretera litoral, no obtuvimos un número exacto de víctimas".
11 marzo al 17 marzo.	- "Sobre las acciones ocurridas en Tecoluca, cerro El Cumbo y en los bombardeos del Chinchontepac, Delicias de Concepción en el Depto. de Morazán y en el norte de San Vicente, no obtuvimos un número exacto de víctimas".
18 marzo al 24 marzo.	- "Sobre las acciones ocurridas en San Fco. Gotera, Tierra Blanca de Usulután, faldas del Volcán Chinchontepac, San Marcos Tempa, al norte de Chalatenango, cerro Cacahuatique en San Miguel, Estanzuelas y Nueva Granada de Usulután, no obtuvimos un número exacto de víctimas".
25 marzo al 31 marzo.	- No obtuvimos información.



OFICINA DE TUTELA LEGAL DEL ARZOBISPADO
COMISION ARQUIDIOCESANA DE JUSTICIA Y PAZ

Apdn 2253 - San Salvador, El Salvador, C. A.

11

SEMANA DEL:	ACCIONES MILITARES
1 abril al 7 abril.	- "Sobre las acciones ocurridas en Morazán, San Lorenzo, San Vicente, La Unión y Suchitoto, no obtuvimos un número exacto de víctimas".
8 abril al 14 abril. ;	- "Sobre las acciones ocurridas cerca del Penal de Mariona, en el cerro de Guazapa, Santa Cruz Michapa, Mercedes Umaña, Joquileco y San Miguel, no obtuvimos un número exacto de víctimas".
15 abril al 21 abril.	- "Sobre las acciones ocurridas entre Estanzuelas y Villa El Triunfo en el Depto. de Usulután y Santiago de María del mismo depto., no obtuvimos un número exacto de víctimas".
22 abril al 28 abril.	- No obtuvimos información.
29 abril al 5 mayo.	- No obtuvimos información.
6 mayo al 12 mayo.	- No obtuvimos información.
13 mayo al 19 mayo.	- "Sobre las acciones ocurridas en Cantón Los Apoyos, riberas del río Lempa en Santa Ana; Sacicala en Morazán; Hda. Montealegre en San Miguel y en los bombardeos en Cerro Guazapa y en el Volcán Chinchontepec, no obtuvimos un número exacto de víctimas".
20 mayo al 26 mayo.	- "Sobre las acciones ocurridas en Jiquileco, Oratorio Concepción, Cerros de Los Mangos y Cevilán del depto. de Chalatenango y cantón Los Apoyos de Santa Ana y sobre la destrucción del Puente Agua Caliente en Sta. Rosa de Lima y Quebrada Seca, no obtuvimos un número exacto de víctimas".
27 mayo al 2 junio.	- "Sobre las acciones ocurridas en California y Jucuerán del depto. de Usulután y en cerro Cacahuatique de Morazán, no obtuvimos un número exacto de víctimas".
3 junio al 9 junio.	- No obtuvimos información.
10 junio al 16 junio.	- No obtuvimos información.
17 junio al 23 junio.	- "Sobre las acciones efectuadas en los alrededores de Suchitoto y sobre las últimas informaciones del desarrollo del Operativo "Bienestar para San Vicente" no obtuvimos un número exacto de víctimas".



OFICINA DE TUTELA LEGAL DEL ARZOBISPADO
COMISION ARQUIDIOCESANA DE JUSTICIA Y PAZ

111

Apdo. 2253 — San Salvador, El Salvador, C. A.

SEMANA DEL:	ACCIONES MILITARES
24 junio al 30 junio.	- "Sobre los bombardeos ocurridos en San Sebastián del depto. de San Vicente y sobre la carretera a Suchitoto y sobre las acciones ocurridas en cerro Miramundo en la Palma del depto. de Chalatenango, no obtuvimos un número exacto de víctimas".
1 julio al 7 julio.	- "Sobre las acciones ocurridas en Sta. Elena y San Agustín del depto. de Usulután, sobre el Operativo en Usulután iniciado el 5 de julio y sobre la operación de rastreo en el depto. de Morazán, no obtuvimos un número exacto de víctimas".
8 julio al 14 julio.	- "Sobre las acciones ocurridas en San Ignacio, La Palma y El Poy, del depto. de Chalatenango y al oriente del depto. de San Vicente, no obtuvimos un número exacto de víctimas".
15 julio al 21 julio.	- "Sobre las acciones ocurridas en Cantón El Rosario, Tenancingo del depto. de Cuscatlán y en la ciudad de Suchitoto y sus alrededores, no obtuvimos un número exacto de víctimas".
22 julio al 28 julio.	- No obtuvimos información.
29 julio al 8 agosto.	- "Sobre las últimas acciones ocurridas en el depto. de Morazán, la ofensiva en Chalatenango iniciada el 1º de Agosto y sobre el feroz enfrentamiento en el cerro Cecehuate en el depto. de San Miguel, no obtuvimos un número exacto de víctimas".
12 ago. al 18 agosto.	- "Sobre los últimos bombardeos y acciones bélicas ocurridas en el Cerro de Guazapa no obtuvimos un número exacto de víctimas".
19 ago. al 25 agosto.	- "Sobre las acciones de esta semana realizadas en Sta. Cruz Michapa, del depto. de Cuscatlán y sobre los recientes combates librados el 23 de Agosto en desfiladero a Sociedad del depto. de San Miguel, no obtuvimos un número exacto de víctimas".
26 ago. al 1º Septiembre.	- "Sobre el Operativo en Guazapa iniciado el 28 de Sept. en el cerro de Guazapa, no obtuvimos un número exacto de víctimas".



OFICINA DE TUTELA LEGAL DEL ARZOBISPADO
COMISION ARQUIDIOCESANA DE JUSTICIA Y PAZ

Año 2253 — San Salvador, El Salvador, C. A.

IV

SEMANA DEL:	ACCIONES MILITARES
2 sept. al 8 Septiembre.	- No obtuvimos información.
9 sept. al 15 Septiembre.	- "Sobre las últimas acciones en Base Militar El Delirio en el depto. de San Miguel el 9 de Sept., el ataque a la sub-estación de CEL en Villa El Triunfo el 11 de Sept., c. cerro El Amate de la jurisdicción de Intipucá en La Unión y en Jocoro del depto. de Morazán, no obtuvimos un número exacto de víctimas".
16 sept. al 22 Septiembre.	- "Sobre los recientes combates librados en Puerto El Triunfo los días 14, 15 y 18 de Sept. no obtuvimos un número exacto de víctimas".
23 sept. al 29 Septiembre.	- "Sobre los resultados del Operativo en la Bahía de Jiquilisco el 22 de Sept.; bombardeos en cerro de Guazapa el 22 de Sept.; recientes combates en los cantones Achichilco, San Antonio Caminos y Dos Quebradas en la carretera que de San Vicente conduce a Tecoluce el 23 de Sept. y en ataques a los cantones Rosario Tablón y Corral Viejo a 38 Kms. al nordeste de San Salvador, no obtuvimos un número exacto de víctimas".
30 sept. al 6 Octubre.	- "Sobre las acciones ocurridas durante la ocupación de Jucuepa y nuevo Edén de San Juan el 4 de Oct., no obtuvimos un número exacto de víctimas".
7 Oct. al 13 Octubre.	- "Sobre los recientes combates que se dieron durante la ocupación de Lolotique el 8 de Octubre; Villa El Triunfo y San Buenaventura el 9 de Oct. y El Tránsito el 10 de Oct., y sobre los combates en cerro Babilonia y Villa Sociedad, no obtuvimos un número exacto de víctimas".
14 Oct. al 20 Octubre.	- "Sobre los fuertes combates librados en San Fco. Gotera el 12 de Octubre y en el Operativo de contornos de Suchitoto iniciado el 19 de Oct., no obtuvimos un número exacto de víctimas".
21 Oct. al 27 Octubre.	- "Sobre algunos enfrentamientos que se han registrado en el cerro de Guazapa, al norte de S.S., no obtuvimos un número exacto de víctimas".



OFICINA DE TUTELA LEGAL DEL ARZOBISPADO
COMISION ARQUIDIOCESANA DE JUSTICIA Y PAZ

Apdo. 2253 — San Salvador, El Salvador, C. A.

V

SEMANA DEL:	ACCIONES MILITARES
28 Oct. al 3 Noviembre.	- "Sobre los combates que se dieron durante el asedio a la ciudad de Jucupe el 29 de Oct. y sobre el cañoneo en el volcán Chinchontepac el 2 de Nov., no obtuvimos un número exacto de víctimas".
4 Nov. al 10 Noviembre.	- "Sobre el enfrentamiento armado en San Juan Opico el 2 de Nov., sobre las operaciones militares en Tepetitán de San Vicente y Tejutapa de Cabañas y sobre los fuertes combates en San Fco. Javier, no obtuvimos un número exacto de víctimas".
11 Nov. al 17 Noviembre.	- "Sobre el ataque a puestos militares en San Lorenzo, depto. de San Vicente los días 11, 12, 13 y 14 de Nov.; sobre el enfrentamiento en San Jorge, depto. de San Miguel y sobre enfrentamiento en Jiquilisco el 15 de Nov., no obtuvimos un número exacto de víctimas".
18 Nov. al 24 Noviembre.	- "Sobre el enfrentamiento en El Tablón, al norte de Sociedad en el depto. de Morazán y sobre los enfrentamientos en Concepción Batres del depto. de Usulután el 18 de Nov., no obtuvimos un número exacto de víctimas".
25 Nov. al 1º Diciembre.	- "Sobre las acciones bélicas ocurridas en Torola, El Guarumbo, Agua Zerca, El Ocotillo, El Picacho, El Tortolito de Morazán, zonas que fueron bombardeadas y en donde se realizó un operativo por la artillería y unidades del batallón Morazán y sobre la masiva invasión al norte de San Vicente: Santa Clara, San Esteban Catarina, San Lorenzo, San Sebastián, Amatitán Arriba y Abajo, no obtuvimos un número exacto de víctimas".
2 Dic. al 8 Diciembre.	- "Sobre el fuerte enfrentamiento en el desvío de la Panamericana a Santiago de María el 6 de Diciembre; violentos combates por el control de Jucupe el 5 de Dic.; bombardeo en Cantón El Zapote de Jucuarán; intenso bombardeo en Guazapa; el Operativo al recuperar Corinto y sobre la continuación del Operativo al norte de San Vicente, no obtuvimos un número exacto de víctimas".



OFICINA DE TUTELA LEGAL DEL ARZOBISPADO
COMISION ARQUIDIOCESANA DE JUSTICIA Y PAZ

Apdo. 2253 — San Salvador, El Salvador, C. A.

VI

SEMANA DEL:	ACCIONES MILITARES
9 Dic. al 15 Diciembre.	- "Sobre la operación de limpieza en alrededores de Jucupa el 8 de Diciembre; sobre la continuación del Operativo en todo el depto. de San Vicente; sobre la operación de Contrainsurgencia en Santiago de Marín y San Agustín del depto. de Usulután y Chinameca de San Miguel; destrucción de campamento en el área de San Carlos Lempa de La Paz y sobre los combates en Nueve Guadalupe y Sesori el 13 de Dic., no obtuvimos un número exacto de víctimas.
16 Dic. al 22 Diciembre.	- "Sobre el operativo iniciado el 19 de Dic. en Jocoaitique, Totola, San Fernando y en lugares a 10 kms. de la frontera del depto. de Morazán y en cantones en alrededores de Chapeltique, Sesori y Ciudad Barrios del depto. de San Miguel, no obtuvimos un número exacto de víctimas".
23 Dic. al 29 Diciembre.	- "Sobre los fuertes combates en San José Guayabal el 22 de Dic.; Jocoaitique; Ciudad Barrios el 22 de Dic.; ataque a la Comandancia de El Paisnal el 24 de Dic.; nutrido tiroteo y cañoneo en Parquín y San Fernando el 27 de Dic. y sobre los fuertes combates que se libraron en la Población de El Paisnal, no obtuvimos un número exacto de víctimas".
30 Dic. al 5 Enero-1984	- No obtuvimos información.
<p>OFICINA DE TUTELA LEGAL DEL ARZOBISPADO COMISION ARQUIDIOCESANA DE JUSTICIA Y PAZ APDO. 2253 Tel. 26 34 79 San Salvador, El Salvador, C. A.</p>	

BOSTON PUBLIC LIBRARY



3 9999 05706 0913